NLWJC - KAGAN

STAFF & OFFICE - D.C. CIRCUIT

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Elena Kagan News 2 [6]

FOIA Number: Kagan

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Elena Kagan News 2 [6]

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January 16, 1996 President Bill Clinton William F. Clinger
SUBJECT: Request for Cooperation

131 Terry Good is the Directorofthe White House Officc ofrecords Managemcnt

132 John M. Quinn is the White House Counsel.

DATE	TO	FROM
January 16, 1996	Barbara K. Bracher SUBJECT:	Christopher D. Cerf 133 Limited Access to Documents
January 17, 1996	William F. Clinger SUBJECT:	John M. Quinn Answers to Questions
January 18, 1996	Barbara K. Bracher SUBJECT:	Jane C. Sherburne Promise to Produce Docum.
January 19, 1996	Barbara K. Bracher SUBJECT:	Christopher D. Cerf Limited Access to Documents
January 22, 1996	Barbara K. Bracher SUBJECT:	Jane C. Sherburne Limited Access to Documents
January 22, 1996	Barbara K. Bracher SUBJECT:	Jane C. Sherburne Limited Access to Documents
January 22, 1996	William F. Clinger SUBJECT:	John M. Quinn Promise to Produce Docum.
January 22, 1996	John M. Quinn SUBJECT:	William F. Clinger Request for Information
January 23, 1996	John M. Quinn SUBJECT:	William F. Clinger Request for Cooperation
January 23, 1996	William F. Clinger SUBJECT:	John M. Quinn Limited Access to Documents
January 24, 1996	William F. Clinger SUBJECT:	John M. Quinn Limited Access to Documents
January 25, 1996	William F. Clinger SUBJECT:	John M. Quinn Answers to Questions

Congressional Press Releases, May 29, 1996

January 29, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Information
February 1, 1996	President Bill Clinton	William F. Clinger
	SUBJECT:	Limited Access to Information
February 1, 1996	William F. Clinger	John M. Quinn
	SUBJECT:	Limited Access to Documents
February 2, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Information
February 5, 1996	William F. Clinger	John M. Quinn
	SUBJECT:	Limited Access to Info.
February 6, 1996	John M. Quinn	William F. Clinger
	SUBJECT:	Clarification of Document Request
February 9, 1996	John M. Quinn	William F. Clinger
	SUBJECT:	Procdures for Documents
February 14, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Documents
February 15, 1996	William F. Clinger	John C. Quinn
	SUBJECT:	Request for Information
February 26, 1996	John M. Quinn	Jane C. Sherburne
	SUBJECT:	Limited Access to Information
February 26, 1996	William F. Clinger	John M. Quinn
	SUBJECT:	Procedures for Documents
February 27, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Answers to Questions
February 27, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Límited Access to Documents
March 4, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Documents
March 5, 1996	Kevin Sabo	Jane C. Sherburne
	SUBJECT:	Answers to Questions
March 8, 1996	Barbara K. Bracher	Jane C. Sherburne

		SUBJECT:	Limited Access to Documents
March 12, 1996	John M. Quinn		William F. Clinger
		SUBJECT:	Notification of Deposition
March 15, 1996	William F. Clinger		John M. Quinn
		SUBJECT:	Answers to Questions
March 15, 1996	Barbara K. Bracher		Jane C. Sherburne
		SUBJECT:	Limited Access to Documents
March 20, 1996	John M. Quinn		William F. Clinger
		SUBJECT:	Request for Priviledte Log
March 21, 1996	William F. Clinger		David E. Kendall 134
		SUBJECT:	Responses of Mrs. Clinton
March 21, 1996	William F. Clinger		John M. Quinn
		SUBJECT:	Request Cont. Rolling Prod.
March 26, 1996	John M. Quinn		William F. Clinger
		SUBJECT:	Request for Information
March 27, 1996	William F. Clinger		John M. Quinn
		SUBJECT:	Answers to Questions
March 27, 1996	John M. Quinn		William F. Clinger
		SUBJECT:	Request for Information

133 Christopher D. Cerf is an Associate Counsel at the White House

134 David E. Kendall is a private attorney representing the President and First Lady

DATE	TO		FROM
March 27, 1996	John M. Quinn		William F. Clinger, Jr.
		SUBJECT:	Request for Information
March 28, 1996	John M. Quinn		William F. Clinger, Jr.
		SUBJECT:	Request for Documents
March 28, 1996	William F. Clinger, Jr.		Jane C. Sherburne
		SUBJECT:	Limited Access to Docum.
April 1, 1996	Barbara K. Bracher		Jane C. Sherburne
		SUBJECT:	Limited Access to Docum.

April 2, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Docum.
April 3, 1996	William F. Clinger, Jr.	John M. Quinn
	SUBJECT:	Promise to Provide Info.
April 3, 1996	William F. Clinger, Jr.	John M. Quinn
	SUBJECT:	Answers Questions
April 4, 1996	John M. Quinn	William F. Clinger, Jr.
	SUBJECT:	Answers Questions
April 5, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Docum.
April 5, 1996	William F. Clinger, Jr.	John M. Quinn
	SUBJECT:	Answers Questions
April 9, 1996	William F. Clinger, Jr.	Jane C. Sherburne
	SUBJECT:	Answers Questions
April 11, 1996	William F. Clinger, Jr.	Jane C. Sherburne
	SUBJECT:	Answers Questions
April 18, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Docum.
April 23, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Docum.
April 24, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Docum.
April 24, 1996	Barbara K. Bracher	Jane C. Sherburne
	SUBJECT:	Limited Access to Docum.
May 2, 1996	John M. Quinn	William F. Clinger, Jr.
	SUBJECT:	Request Final Prod. of Documents
May 2, 1996	William F. Clinger, Jr	John M. Quinn
	SUBJECT:	Claims Politicization
May 3, 1996	William F. Clinger, Jr.	John M. Quinn
	SUBJECT:	Discuss Documents Withheld
May 3, 1996	Cardiss Collins	William F. Clinger, Jr.
	SUBJECT:	Seeking Assistance
May 6, 1996	John M. Quinn	William F. Clinger, Jr.
	SUBJECT:	Demand Final Product
May 6, 1996	William F. Clinger, Jr.	John M. Quinn

		SUBJECT:	Suggest More Compromise
May 7, 1996	John M. Quinn		William F. Clinger, Jr.
		SUBJECT:	Requests Executive Priv. Claim
May 7, 1996	Barbara K. Bracher		Jane C. Sherburne
		SUBJECT:	Limited Access to Docum.
May 9, 1996	William F. Clinger, Jr.		John M. Quinn
		SUBJECT:	Claim Executive Priv.

COMPLIANCE WITH RULE XI

(1) Pursuant to clauses 2(1)(2) (A) and (B) of rule XI, a majority of the Committee having been present, the resolution recommended in this report was approved by a vote of 27 ayes to 19, ayes.

(2) Pursuant to Rule XI, clause 2(1)(3)(A) and Rule X, clause 2(b)(1), the findings and recommendations of the Committee are found in the Facts, Background, and Findings section of this report.

(3) Pursuant to Rule XI, clause 2(1)(3)(B) and section 308(a)(1) of the Congressional Budget Act of 1974, the Committee finds that no new budget authority, new spending authority, new credit authority or an increase or decrease in revenues or tax expenditures result from enactment of this resolution.

(4) Pursuant to Rule XI, clause 2(1)(3)(C) and section 403(a) of the Congressional Budget Act of 1974, the Committee finds that a statement of the Congressional Budget Office cost estimate is not required as this resolution is not of a public character.

(5) Pursuant to Rule XI, clause 2(1)(4), the Committee finds that a Whitement of inflationary impact is not required as this resolution is not of a public character.

CONCLUSION

The Committee properly proceeded with its bipartisan investigation of the allegations regarding the terminations of White House Travel Office workers. Upon due deliberation, it received the advice of the Chairman of the Committee that the cooperation of the individuals named in the resolution was not forthcoming. In essence, the individuals are seeking to set the priorities and schedule of the Committee's investigation into the Travel Office matter. The Congress cannot accept that arrangement as a constraint on its investigatory authority.

Accordingly, the Committee recommends to the House the following resolution:

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House certify the report of the Committee on Government Reform and Oversight, detailing the refusal of John M. Quinn to produce papers to the Committee on Government Reform and Oversight, to the United States Attorney for the District of Columbia, for him to be proceeded against in the manner and form provided

by law; and be it further

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House certify the report of the Committee on Government Reform and Oversight, detailing the refusal of David Watkins to produce papers to the Committee on Government Reform and Oversight, to the United States Attorney for the District of Columbia, for fil in to be proceeded.against in the manner and form provided by law; and be it further

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House certify the report of the Committee on Government Reform and Oversight, detailing the refusal of Matthew Moore to produce papers to the Committee on Government Reform and Oversight, to the United States Attorney for the District of Columbia, for him to be proceeded against in the manner and form provided by law.

ADDITIONAL VIEWS OF HON. WILLIAM F. CLINGER, JR.

A. Character of the Presidency

It is troubling that the President of the United States persists in his efforts to cover-up a scandal having no connection with any national security or vital domestic policy issue. In the final analysis, the Travel Office matter reflects the character of the President and his presidency.

We are by no means rushing matters here. For example, when Congress subpoenaed Secretary of State Henry Kissinger for documents pertaining to national security, a House committee met two days after the return date of the subpoena and voted Mr. Kissinger in contempt of Congress despite an assertion of executive privilege. By contrast, we have provided months and months for production, and the White House Counsel's Office previously committed to timely claims of executive privilege so that just such a confrontation as this would not occur. Clearly, the White House's word on this was hollow.

Frankly, the President's last minute and ineffective claim of executive privilege is an unprecedented development. I am disappointed that the President, who three years ago pledged to get to the bottom of the Travel Office matter and cooperate instead has taken the extraordinary position of attempting to assert a blanket, undifferentiated executive privilege over all outstanding Travel Office documents. Such a blanket executive privilege was reelected in US. v. Nixon. But in the Nixon case, the White House had at least identified the documents they were withholding. This President once promised the most open Administration in the history of the nation; yet now doesn't even meet the woefully low standard of President Nixon in identifying withheld documents.

This is the first executive privilege claim attempted by President Clinton. The rules governing executive privilege have not been updated since they were issued by President Ronald Reagan in 1982 but White House Counsel John M. Quinn informed me that the Clinton Administration would follow the Reagan procedures. Quoting from this order: " Executive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of this privilege is necessary." "Congressional requests for information shall be compiled with as promptly and as fully as possible, unless it is determined that compliance raises a substantial question of executive privilege." "A 'substantial question of executive privilege' exists if

disclosure of the information requested might significantly impair the national security including the conduct of foreign relations), the deliberative process of the executive branch, or other aspects of the performance of the executive branch's constitutional duties." (Emphasis Added)

It has been White House policy since the Kennedy Administration not to invoke executive privilege when allegations of wrongdoing are at issue. Certainly, that is the case with the Travel Office matter. Already, there has been a criminal referral from the General Accounting Office (GAO) involving Mr. David Watkins' statements regarding the Travel Office firings. Independent Counsel Kenneth Starr's jurisdiction has been expanded to encompass this and other Travelgate issues.

In light of the expansion of the independent counsel's jurisdiction, the President's actions are particularly troubling. I would note, for example, that President Reagan waived all claims of executive privilege during the Iran-Contra investigation.

I find it difficult to understand how documents related to the White House Travel Office scandal somehow rise to a "substantial question of executive privilege." Certainly, disclosure of these documents would not impair the national security or the conduct of foreign relations. Nor would the performance of the executive branch's constitutional duties be imp4iK6.d if President Clinton kept his own pledge to get to the bottom of this matter.

B. A Culture of Secrecy

The Committee's receipt of an ineffective blanket claim of executive privilege the morning of the Committee vote was typical of the Administration's pattern of response from the start -- delay and delay until threatened with criminal contempt for refusing to comply with proper procedure, then try to buy more time with hollow promises of future cooperation. We have heard a great deal about the 40,000 pages of documents as proof of White House cooperation. But the quantity of documents does not determine the thoroughness of production. President Clinton continues to withhold an unidentified body of subpoenaed records. Many of the records emanate from the Counsel's office.

In the wake of the uproar over the Travel Office firings, the President promised to get to the bottom" of what happened in the firing of the Travel Office employees. He also committed to Congress that he would fully cooperate with Justice Department investigations into this matter. No issue of executive privilege was raised. No talk of internal deliberative process or withholding documents was ever mentioned by the President at that time.

In the past, I have participated with my colleagues in subpoenaing documents from White House officials. In my experience, I never before have met with such intransigence from any previous administration. Had a Republican administration behaved in this manner, I by no means would have endorsed such disdain for Congress.

The Administration's resistance to oversight in this matter began almost immediately after the firings and demonstrates the culture of secrecy that has become its hallmark. In notes dated May 27, 1993, White House Management Review author Todd Stem wrote, "Problem is that if we do any kind of report and fail to address those questions, the press jumps on you wanting to know answers; while

if you give answers that aren't fully honest (e.g., nothing re: HRC), you risk hugely compounding the problem by getting caught in half- truths. You run the risk of turning this into a cover-up." (Emphasis Added)

This White House embarked on an unmistakable course which frustrated, delayed, and derailed investigators from the White House itself, the GAO, the Federal Bureau of Investigation, and the administration's own Justice Department Office of Professional Responsibility and Public Integrity Sections. That is what has brought the Committee to this unfortunate impasse.

This White House simply refuses to provide this Committee with the subpoenaed documents that will help us bring this Travel Office investigation to a close, something that I have sought to do for nearly three years. Documents inexplicably have been misplaced in "stacks," or "book rooms" or storage boxes, where they languished for months if not years, despite subpoenas and document requests from numerous official investigative bodies.

If President Clinton responds to investigations of presumably minor internal problems this way, how does he handle far more serious national and international matters? This administration's culture of secrecy could have disastrous consequences where critical national policy matters involving foreign affairs are concerned. Let there be no misunderstanding. What we have before the Committee should not be the issue of a constitutional confrontation. This Committee seeks no records pertaining to the national security. This is not Bosnia. This is not Iran. International relations are not at stake.

When the White House, as in the case here, fails to comply fully with investigations mandated by Congress or senior Justice Department officials, the oversight role critical to our system of checks and balances is corn romised and it is incumbent upon this Committee to assert and to uphold its jurisdiction and congressional prerogatives.

C. Deliberate Attempt to Obstruct Legitimate Oversight

Almost three years ago, I requested information and hearings into the Travel Office matter. I repeatedly was stymied in my efforts until Republicans gained a majority in the House. Prior to the change in House leadership, the White House refused to provide access to any documents. For the past three years, the White House has made every effort to deliberately, and continuously, obstruct legitimate oversight by both the executive branch and the Congress.

In a particularly cynical memo, White House Associate Counsel Neil Eggleston wrote his superiors advising that the White House should deny Republicans access to GAO Travel Office documents until after the White House appropriations bill was enacted. This-exhibits the gamesmanship which has epitomized this Administration and its counsel's office. Now, even subpoenas are not treated seriously.

As I have mentioned, we already have had a criminal referral regarding David Watkins' statements about the Travel Office. This came about after a long-withheld "soul cleansing memo" by Mr. Watkins which surfaced years after it should have been produced to numerous investigative bodies in response to document requests and subpoenas. Not a single previous investigation had access to that document. While several people in the White House knew about this memo, it never was turned over to the GAO, OPR, Public Integrity, or this Committee,

frankly for years.

It was the "surpfise" finding of one version of that two-and-a- half year old "soul cleansing" memo that caused this Committee to move to bipartisan subpoenas for the production of documents. The subpoenas to the White House were issued on a bipartisan basis with input from the minority staff. Subpoenas to the White House and to individuals in turn produced other documents that previously had been overlooked.

I am convinced that the White House also is running the clock into the political season precisely so that it may cry foul, claiming that this whole investigation is an election year ploy.

Ask the White House: Was it an election year ploy in 1993 when the President signed a law mandating a GAO review of the Travel Office? Was it an election year ploy when his own deputy attorney general ordered a Justice Department Office of Professional Responsibility study in 1993? Was it an election year ploy when the Justice Department began an investigation of the President's longtime Hollywood pal, Harry Thomason?

My initial target date to complete this investigation was the summer of 1993. I myself first requested answers on this subject three years ago. And, when I became chairman of this Committee, I made every effort to complete this investigation last fall.

D. Civil Contempt as a Remedy

I will close by addressing the recommendation of the President's Counsel that Congress resolve this document dispute by enacting a civil remedy statute and proceeding in civil court. Frankly, I am astonished at hearing this recommendation by a Democrat President when the contemnor is a Democrat after knowing that the concept of a civil remedy has been so resoundingly rejected by previous Democrat Congress' when the contemnor was a Republican.

Former House of Representative Counsel Stanley Brand noted during the contempt of Congress dispute with the Reagan Administration Environmental Protection Agency Administrator Anne Burford: "it was the first time in this controversy that we heard that the [[criminal contempt] statute was somehow an unseemly use of the judicial process. I would also agree that a civil sanction is too easily invoked. As a lawyer involved in civil litigation, if you allow me to set foot into Federal district court to litigate a claim of privilege, I can guarantee you I will be there for at least three years ... Committees will have a lot of litigation, a lot of lawyers, a lot of travel around to the various district courts in the United States, but will have no papers, and it will have no basis upon which to make the judgments it has to make. It will be, quite frankly, a lawyer's field day and I don't think that is in the interest of the Congress or in the interest of the citizenry."[Congress or in the interest of the citizenry."[135]

The civil contempt statute resolution was also soundly criticized by my colleague, Congressman Barney Frank, who sits on the House Judiciary Committee. Rep. Frank stated, "I am afraid that the procedure... would make it too easy. The threshold for going to court, I think under that, is too low, and I think we wold be in court much too often... The criminal sanction is the way to force the issue and I would assume in any case where a judge found against the official,

that the resuh wold be not the imprisonment of that official, but the production of the papers. It is difficult for me to think that any executive branch official swom to uphold the laws, as we all are, would defy a court order and withhold papers that he or she was ordered to bring to us."[withhold papers that he or she was ordered to bring to us."[136]

E. Conclusion

Clearly, citing contempt is a serious action. I am saddened that it is necessary to take that step. The Congress must invoke contempt, however, when a White House repeatedly exhibits such disdain for civil and criminal investigations as this one has throughout all of the Travelgate inquiries. I certainly have anticipated the complaints my colleagues-bave raised. But I must note that, in the past, when the House's rights to information and the public's right to know have been so baldly denied, the constitutional responsibilities and institutional interests of this body have been recognized on a bipartisan basis. [[135] Prosecution of Contempi of Congress, Hearings before the Subcommittee on Administrative Law and Government Relations of the House Committee on the Judiciary, 98th Congress, 2d Sess., (Nov. 15, 1983), page 24. [[136] Id. at 19.

Long after all the other investigations gave up on finding the truth this Committee continues to hold the President and his administration to his word, to the pledges and commitments of full cooperation which he made to the nation and to Congress three years ago. It remains my hope that President Clinton will recognize that the unfortunate course that he has chosen creates a constitutional confrontation and may lead to the criminal prosecution of one of his trusted aides. A true statesman would take immediate steps to end a dispute over records which have no impact on national security and no impact on public-policy making. I have a constitutional duty to perform effective oversight. The President has a constitutional duty to cooperate.

LANGUAGE: ENGLISH

LOAD-DATE: May 31, 1996

LEVEL 1 - 153 OF 166 STORIES

The Washington Post

May 27, 1996, Monday, Final Edition

SECTION: A SECTION; Pg. A21; THE FEDERAL PAGE; IN THE LOOP

LENGTH: 854 words

HEADLINE: When Spy Meets Spy

BYLINE: Al Kamen, Washington Post Staff Writer

BODY:
There was Aldrich H. Ames, the most damaging spy in CIA history, finally out among his fellow inmates in the maximum-security section of the federal pen in Allenwood, Pa.

He'd been in solitary confinement for 21 months, and now he's waiting for a 7 1/2 hour a day job, five days a week, pension and benefits to be determined -- although since he's never getting out, those probably won't be an issue.

So Ames ventures out recently and, according to inside reports, who does he see but that other great CIA agent and entrepreneur, Edwin P. Wilson, late of the federal pen in Marion, Ill., who's doing 52 years for selling explosives to Libyan dictator Moammar Gadhafi.

Word is Ames thought it would be improper to strike up a conversation right away, figuring they'll have plenty of time to chat. He later learned that Wilson didn't particularly want to talk to him anyway because Wilson thought Ames had been a blot on the agency's record.

Quiz of Untold Successes

Speaking of the spooks, it's time for the "In the Loop Aldrich Ames Memorial Quiz."

The intelligence agencies were aglow recently over a report by a presidential review commission that found that, while mistakes were made, "the accomplishments of U.S. intelligence have been, and continue to be, impressive."

The commission cited many successes, all since the end of the Cold War, and fervently wished it could share them with us, but, of course, they're secret. Only bare essentials were given.

But we know there are Loop Fans out there who can fill in the details, many of which have been widely reported in the media, though, of course, not confirmed by the spook set. So here's your chance.

Winners will receive renegade spy Philip Agee's phone number.

1. In at least two cases, with the help of U.S. intelligence, the sale of radioactive materials that could be used in the production of nuclear weapons was halted by other governments. Name them.

2. Since 1990, U.S. intelligence has uncovered the clandestine efforts of several countries to acquire weapons of mass destruction and their related delivery systems. In some cases, this information provided the basis for diplomatic actions by the United States and United Nations to counter such efforts. Name as many as you can.

3. On at least two occasions, U.S. intelligence provided information that led to successful U.S. diplomatic efforts to head off potential armed conflicts between two countries. Name the countries.

4. Information was provided by U.S. intelligence on two occasions that foiled assassination plots abroad and led to the arrest of the perpetrators. Name the targets and perps.

5. In several instances, U.S. intelligence uncovered foreign competitors of U.S. commercial firms using bribery and other illegal tactics to obtain contracts with foreign governments. Diplomatic intervention with the government concerned to assure a "level playing field" eventually led to a U.S. firm

obtaining the contract by winning the competition. Identify the government and firms linked to this shocking behavior.

6. On several occasions, U.S. intelligence provided information warning of financial collapse in other countries, leading to actions by the United States and other governments. What countries?

7. U.S. intelligence has provided information with respect to human rights abuses and election-rigging by certain governments that has altered the U.S. diplomatic posture toward those governments. Name the governments.

Send your best guesses by mail to Ames Quiz, c/o Al Kamen, The Washington Post, 1150 15th Street NW, Washington, D.C. 20071 or by e-mail to kamenaWashpost.com.

Members of the intelligence community and their families are eligible. All entries must be received by midnight, June 3.

Good luck.

Justice's Next Legal Counsel

No word yet on a pick to run the Office of Legal Counsel at the Justice Department when current occupant Walter Dellinger becomes acting solicitor general this summer.

The critical job, though little known outside the legal world, has been an extraordinary stepping stone to higher posts. Two Supreme Court justices -- Chief Justice William H. Rehnquist and Justice Antonin Scalia -- ran the office, as did two attorneys general -- William P. Barr and Nicholas deB. Katzenbach.

Since the OLC gives legal advice to both the attorney general and the president, the final choice most likely will be someone Bill Clinton and Janet Reno are comfortable with.

Reno is said to be leaning toward Seth Waxman, former law partner of Deputy Attorney General Jamie S. Gorelick, who now works for her. Vice President Gore is backing former Clinton deputy White House counsel Joel Klein, who is now deputy attorney general in the antitrust division. White House counsel Jack Quinn is backing two candidates: Beth Nolan, a career government lawyer who has three years of OLC experience -- with Theodore Olsen in Republican days -- and was more recently in the Clinton White House counsel's office, and Elena Kagan, a former University of Chicago law professor who now works in the counsel's office.

LANGUAGE: ENGLISH

LOAD-DATE: May 27, 1996May 27, 1996

LEVEL 1 - 154 OF 166 STORIES

Fulton County Daily Report, May 20,1996

May 20, 1996, Monday

LENGTH: 1640 words

HEADLINE: Three-Way Race Shapes Up to Fill DOJ Post;
Crucial Election-Year Decisions May Await New Yead of Office of Legal Counsel

BYLINE: CHARLES FINNIE; American Lawyer News Service.

BODY:
WASHINGTON A three-way, behind- the-scenes contest has broken out to head the Justice Department's influential Office of Legal Counsel where legal judgments critical to the Clinton administration could be made this election year.

According to Justice Department and White House officials, the leading candidates to succeed Walter Dellinger are top antitrust Deputy Assistant Attorney General Joel Klein, Associate Deputy Attorney General Seth Waxman, and George Washington University law Professor Beth Nolan.

An associate White House counsel, Elena Kagan, has also received close attention, but no longer is considered in the first tier, one top Justice Department official says.

The person chosen by President Bill Clinton and Attorney General Janet Reno is likely to take over from Office of Legal Counsel Assistant Attorney General Dellinger before July, when Dellinger becomes acting solicitor general.

"The president and the White House relied a lot on Walter's office," says one top Justice Department lawyer, who requests anonymity. "There's a desire to have somebody succeed him with the same stature and confidence."

The Office of Legal Counsel (OLC) provides often sensitive legal guidance to the Justice Department, to the White House, and to the executive agencies on new policy initiatives. The office also formulates the department's response to key Supreme Court rulings and major legislation.

In the next few months, the new legal counsel may face several politically charged issues. Among them: assessing the legal implications of congressional proposals to curb affirmative action on the federal level and responding to congressional demands for White House documents in the travel office investigation.

Under both Republican and Democratic administrations, the office has been open to charges of partisanship of allowing a president's policies to drive its opinions.

Dellinger, widely respected by Democrats and Republicans and generally liked because of his engaging sense of humor, has not been immune to the criticism. His successor will face similar on-the-job scrutiny.

"It's important for the department to step to the plate to defend the constitutional prerogatives of Congress, as well as the White House," says Republican lawyer Michael Carvin.

The temptation to hew to the president's political agenda is always there, says Carvin, who was a deputy assistant attorney general for legal counsel in Ronald Reagan's first administration. Now a partner at Washington, D.C.'s Shaw, Pittman, Potts & Trowbridge, Carvin notes that the kind of issue that could put the next legal counsel on the hot seat arose earlier this month when Rep. William Clinger Jr. (R-Pa.) clashed with White House Counsel John "Jack" Quinn over the administration's failure to turn over subpoenaed documents.

Clinger's House panel investigating the 1993 White House travel office firings voted to hold the White House in contempt of Congress, after negotiations over release of the documents broke down and Quinn said that the White House would claim executive privilege.

Carvin says the policy decision to invoke that privilege would be made by the president and Quinn, but the Office of Legal Counsel probably would be called on to provide a legal rationale.

The contenders either did not return telephone calls or declined to comment for this article.

Klein, the principal deputy assistant attorney general for antitrust matters, has the closest political ties to the president. According to a top administration official, Klein also has Vice President Albert Gore Jr.'s endorsement to succeed Dellinger.

Before joining the Antitrust Division a year ago, Klein served as deputy counsel to the president under the three former White House counsel Bernard Nussbaum, Lloyd Cutler, and Abner Mikva.

In 1992, Klein performed legal work for the Clinton-Gore campaign. Until then, however, he was best known in Washington for being one of the founders of Onek, Klein & Farr, a firm that during its heyday was considered the city's premier Supreme Court litigation boutique.

Despite Klein's heavyweight credentials and the vice president's support, he is not considered a shoo-in to succeed Dellinger, says one top administration official.

Having served as the second- ranking lawyer in the White House counsel's office for two years, "he had his share of battles," says the official, speaking on condition of anonymity.

Waxman, formerly a partner at Miller, Cassidy, Larroca & Lewin, joined the Justice Department after his former law partner, Jamie Gorelick, was named deputy attorney general, the department's second in command.

He is Gorelick's point man on immigration affairs and by extension on the administration's high-profile Southwest border initiative to beef up immigration and drug-law enforcement.

An expert on capital-defense appeals from his days in private practice, Waxman also reviews trial court rulings for possible appeal in the department's criminal and civil cases.

Nolan, a George Washington University Law School legal ethics scholar, served as associate White House counsel under Klein, who, as deputy counsel, was the second-ranking lawyer.

A top administration official says that Nolan has support from within the current White House counsel's office but Quinn, its top lawyer, is trying to remain neutral.

Although Nolan is considered well-qualified for the post, one high-ranking Justice Department official says it would be "extraordinary" to pass over Klein or Waxman and reach outside the administration for Dellinger's replacement.

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She is also a former litigation associate at Williams & Connolly, the Washington law firm that represents the president and first lady Hillary Rodham Clinton in the couple's Whitewater-related legal matters.

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Dellinger found no "rational basis" for the statute barring HIV-positive soldiers, although the administration claimed its controversial "Don't Ask, Don't Tell" policy that excludes many gay people from the service passed the test of rationality.

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peals for the District of Columbia.

Dellinger's Capitol Hill testimony that a proposed balanced-budget constitutional amendment is legally unenforceable also raised eyebrows. Dellinger was unavailable for comment.

Because the OLC chief often works at the intersection of law and partisan politics, the choice of Dellinger's successor will be watched closely in political as well as legal circles.

For two of the candidates, Klein and Nolan, their association with one of the most controversial legal figures of the Clinton administration, Bernard Nussbaum, could make their selection particularly sensitive.

No administration lawyer has drawn more Republican fire than Nussbaum, President Clinton's first White House counsel.

Continuing GOP suspicions of his conduct may diminish the chances of Klein or Nolan, both of whom worked under Nussbaum.

But under the administration's plans for filling the OLC post, the new occupant will not require Senate confirmation, which serves to mute concern about a GOP assault on the eventual selection.

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Before first joining the GW faculty, Nolan, a Democrat, served from 1981 to 1985 as an OLC deputy assistant attorney general under Theodore Olson, a Republican.

Her principal responsibility: Interpreting the government's conflict of interest statutes.

"She would be wonderful," says Olson, a partner in the D.C. office of Los Angeles' Gibson, Dunn & Crutcher. "She's very intelligent, extremely conscientious. I have the greatest respect for her integrity. I can't think of anyone I would endorse more enthusiastically."

One top Justice Department lawyer says one unlikely alternative to selection of any of the candidates would be to elevate one of the current crop of OLC deputies.

LANGUAGE: ENGLISH

LOAD-DATE: August 16, 1996

LEVEL 1 - 155 OF 166 STORIES

Legal Times

May 13, 1996

SECTION: Pg. 1

LENGTH: 1984 words

HEADLINE: At Justice, Contenders Vie For Sensitive Legal Post

BYLINE: BY CHARLES FINNIE

BODY:
A three-way, behind-the scenes contest has broken out to head the Justice Department's influential Office of Legal Counsel -- where legal judgments critical to the Clinton administration could be made this election year.

According to Justice Department and White House officials, the leading candidates to succeed Walter Dellinger are top antitrust Deputy Assistant Attorney General Joe Klein, Associate Deputy Attorney General Seth Waxman, and George Washington University law Professor Beth Nolan.

An associate White House counsel, Elena Kagan, has also received close attention, but no longer is considered in the first tier, one top Justice Department official says.

The person chosen by President Bill Clinton and Attorney General Janet Reno is likely to take over from Office of Legal Counsel Assistant Attorney General Dellinger before July, when Dellinger becomes acting solicitor general.

"The president and the White House relied a lot on Walter's office," says one top Justice Department lawyer, who requests anonymity. "There's a desire to have somebody succeed him with the same stature and confidence."

The Office of Legal Counsel (OLC) provides often sensitive legal guidance to the Justice Department, to the White House, and to the executive agencies on new policy initiatives. The office also formulates the department's response to key Supreme Court rulings and major legislation.

In the next few months, the new legal counsel may face several politically charged issues. Among them: assessing the legal implications of congressional proposals to curb affirmative action on the federal level and responding to congressional demands for White House documents in the travel office investigation.

Under both Republican and Democratic administrations, the office has been open to charges of partisanship -- of allowing a president's policies to drive its opinions.

Dellinger, widely respected by Democrats and Republicans and generally liked because of his engaging sense of humor, has not been immune to the criticism. His successor will face similar on-the-job scrutiny.

Legal Times, May 13, 1996

"It's important for the department to step to the plate to defend the constitutional prerogatives of Congress as well as the White House," says Republican lawyer Michael Carvin.

The temptation to hew to the president's political agenda is always there, says Carvin, who was a deputy assistant attorney general for legal counsel in Ronald Reagan's first administration. Now a partner at D.C.'s Shaw, Pittman, Potts & Trowbridge, Carvin notes that the kind of issue that could put the next legal counsel on the hot seat arose just last week when Rep. William Clinger Jr. (R-Pa.) clashed with White House Counsel John "Jack" Quinn over the administration's failure to turn over subpoenaed documents.

Clinger's House panel investigating the 1993 White House travel office firings voted to hold the White House in contempt of Congress, after negotiations over release of the documents broke down and Quinn said that the White House would claim executive privilege.

Carvin says the policy decision to invoke that privilege would be made by the president and Quinn, but the Office of Legal Counsel probably would be called on to provide a legal rationale.

Republican lawyer Timothy Flanigan, who became OLC assistant attorney general during the end of the Bush administration, said he faced the same political circumstance that awaits Dellinger's successor -- a White House and Congress controlled by opposing political parties

Flanigan, of counsel at Mayer, Brown & Platt, predicted the next O[C head will be called "to help the president do things by himself by executive order?'

The decision about who will next walk the political-legal tightrope s head of the OLC may be complicated by the fact that each of the three main candidates boasts highly influential supporter.

The contenders either did not return telephone calls or declined comment for this article.

Klein, the principal deputy assistant attorney general for antitrust matters, has the closest political ties to the president. According to a top administration official, Klein also has Vice President Albert Gore Jr.'s endorsement to succeed Dellinger.

Before joining the Antitrust Division a year ago, Klein served as deputy counsel to the president under the three former White House cousel -- Bernard Nussbaum, Lloyd Cutler, and Abner Mikva.

In 1992, Klein performed legal work for the Clinton-Gore campaign. Until then, however, he was best known in Washington for being one of the founders of Onek, Klein & Farr, a firm that during its heyday was considered the city's premier Supreme Court litigation boutique.

Despite: Klein's heavyweight credentials and the vice president's support, he is not considered a shoo-in to succeed Dellinger, says one top administration official.

Having served as the second-ranking lawyer in the White House counsel's office for two years, "he had his share of battles," says the official, speaking on condition of anonymity.

Although he declines to identify the subject of those dust-ups, the official adds, those confrontations left behind both backers and detractors for Klein inside the West Wing.

Waxman, formerly a partner at Miller, Cassidy, Larroca & Lewin, joined the Justice Department after his former law partner, Jamie Gorekick, was named deputy attorney general, the department's second in command.

He is Gorelick's point man on immigration affairs -- and by extension on the administration's high -- profile Southwest border initiative to beef up immigration and drug-law enforcement.

An expert on capital-defense appeals from his days in private practice, Waxman also reviews trial court rulings for possible appeal in the department's criminal and civil cases.

A top Justice Department official says Gorelick, who counts Waxman as perhaps her closest professional associate, is nonetheless committed to keep her "finger off the scale" when it comes time for Reno's call on the matter.

Nolan, a George Washington University Law School legal ethics scholar, served as associate White House counsel -- under Klein, who, as deputy counsel, was the second-ranking lawyer.

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This lawyer says that Dellinger tried to have it both ways on the rule and on an early administration policy on removing openly gay people from the armed services.

Dellinger found no "rational basis" for the statute barring HIV-positive soldiers, although the administration claimed its controversial "Don't Ask, Don't Tell" policy that excludes many gay people from the service passed the test of rationality.

"My view was the [HIV] law is stupid," the lawyer says. "But the OLC legal conclusions were mutually exclusive."

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Republican lawmakers accuse White House lawyers from those days of a number of improprieties. They include obtaining information about a Resolution Trust Corp. investigation of an Arkansas thrift with ties to the Clintons; thwarting Federal Bureau of Investigation access to the office of the late former Deputy Counsel Vincent Foster; and failure to disclose details of a briefing to the Clintons' personal lawyers.

But under the administration's plans for filling the OLC post, the new occupant will not require Senate confirmation, which serves to mute concern about a COP assault on the eventual selection.

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The same circumstances mean Dellinger would not require confirmation for his new administration role, either.

Republican lawyer Theodore Olson, the OLC assistant attorney general during the Reagan administration's first term, argues that association with the Nussbaum-led White House counsel's office should not be a factor.

"I think people should be judged individually," Olson says, adding that he counts Nolan a close friend.

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One top Justice Department lawyer says one unlikely alternative to any of the candidates would be to elevate one of the current crop of OLC deputies.

Another Justice Department official says that whatever the decision, it will be made soon because the person will need some time to overlap with Dellinger before he leaves for the solicitor general's office.

GRAPHIC: Pictues 1 through 3, The leading candidates to take over at the Office of Legal Counsel are Beth Nolan, Joel Klein, and Seth Waxman.; Picture 4, While Walter Dellinger won kudos for his OLC tenture, critics said he was political. PATRICE GILBERT

LANGUAGE: ENGLISH

LOAD-DATE: May 23, 1996

LEVEL 1 - 156 OF 166 STORIES

Star Tribune (Minneapolis, MN)

February 6, 1996, Metro Edition

SECTION: News; Pg. 13A

LENGTH: 1063 words

Star Tribune (Minneapolis, MN), February 6, 1996

HEADLINE: Balancing free speech and equal protection of law

BYLINE: Leonard Inskip; Staff Writer

BODY:

Even as the Legislature this week moves toward making it easier for victims of bias crimes to collect damages in civil court, a University of Minnesota center wants the nation to look more closely at related but broader issues of free speech and equal protection of the law.

The center's goal: Find ways to protect freedom of speech while keeping hatemongers and pornographers from flourishing.

Director Laura Lederer has organized a 380-page book of more than 40 essays and academic papers on the topic. It's called "The Price We Pay - The Case Against Racist Speech, Hate Propaganda and Pornography."

The "price" society pays is damaged lives and communities. How, the authors ask, can the cherished free-speech values of the First Amendment be balanced by the equal-protection values of the 14th Amendment?

Too often, their concern goes, the damage caused by hateful speech and by pornography stands for too little alongside free-speech rights of those creating the damage.

Free-speech and equal-protection supporters are polarized, Lederer says. That's why she organized a 1993 conference for legal scholars that led to many of the essays.

When she moved to Minneapolis from Chicago a year ago, her small Center on Speech, Equality and Harm came with her; it found a home in the University of Minnesota's Institute on Race and Poverty.

Publication of the book is an effort to stimulate discussion of issues around free speech and equal protection, Lederer says.

It's no longer enough to think of racist speech, hate propaganda and pornography as things "merely offensive," she argues. In the last decade, the social sciences have begun more clearly to show actual harm to people.

Fear, terror and rage

The book's first half discusses evidence and issues of harm. Ten stories describe the "fear, humiliation, degradation, illness, terror, fury, anger and rage" experienced by victims of hate speech and pornography.

Consider a young black woman manager told to attend an education meeting with the CEO of St. Louis University Medical Center and his top male aides. The men showed a grossly pornographic film.

Shocked, angered, paralyzed with fear, she was powerless to leave an isolated area of the hospital. Her husband later dismissed her reaction, but a good marriage of 13 years fell apart.

She sued the executive and hospital on grounds "the film was used to intimidate, humiliate and harass me." The case went all the way to the U.S. Supreme Court, but she lost. "I was forced to accept that as a woman and as an African-American, I do not enjoy the full protection of the law."

Closer to home was the cross-burning on the St. Paul lawn of Russ and Laura Jones. Their skinhead harassers were charged under a St. Paul bias ordinance, which eventually the U.S. Supreme Court threw out.

The Jones es said the media made it a First Amendment case rather than a violation of their equal-protection rights as citizens.

"No one seemed to care what the message of the cross-burning was, or what effect it had on us," Laura Jones told Lederer.

"When I saw that cross burning on our lawn, I thought of the stories my grandparents told about living in the South and being intimidated by white people. When a cross was burned down there they either meant to harm you or put you in your place."

Another essayist pointed out that Judge Antonin Scalia's majority opinion utterly ignored the history of such terroristic threats and how such intimidation suppresses the free-speech rights of victims.

The 1996 Minnesota law offered by Sen. Ted Mondale, DFL-St. Louis Park, and Rep. Jim Rhodes, R-St. Louis Park, would make it easier for victims of hate crimes to recover damages for emotional distress. It's not the $ 40 it costs to fix the lawn where a cross has burned, but the emotional costs involved, argues an advocate.

"The Price We Pay" describes research in recent years that shows, the essayists say, that racist speech, hate propaganda and pornography "have discernible effects on their targets and on society in general."

Minnesota has had examples of how on-the-job pornography and other sexual harassment degrades women, yet the visitor to small factories or garages still can find it too often.

"Displaying pornography in the workplace is a graphic and effective way for male workers to let their female colleagues know they are not welcome and are considered inferior," one essayist says.

Another cites a survey showing that many boys think "it is okay to hold a girl down and force her to have intercourse. Our study demonstrates that overwhelmingly they are the male teen-agers who are reading and watching pornography . . . . It is a statistical link between the amount of pornography male teen-agers watch and the belief that it may be okay to use force with sex."

When men deprecate women, female bodies and female sexuality, another writer says, male "language can serve as a form of social control."

Star Tribune (Minneapolis, MN), February 6, 1996

To control hateful speech

The book then turns to strategies to control harmful speech and conduct within the present First Amendment framework. Feminist Eleanor Smeal proposes pressuring advertisers not to support offensive media images.

Elena Kagan, a teacher of First Amendment issues, favors more civil remedies for victims, as the Minnesota Legislature is now considering.

Another writer proposes that laws against sex discrimination in employment be used more often to fight pornographic stereotypes.

Other "Price We Pay" essayists would have the country rethink the legal framework for addressing hate speech. One argued for "narrow and well-defined legal controls on pornography and hate speech."

Lederer and a coeditor conclude the book with a call for a "national town meeting" on free speech and equal protection. The symbolic meeting, or rather debate, really is just beginning.

Ironically, the "most stubborn resistance" will come from those most firm in support of the First Amendment, the editors say. But if a function of the First Amendment is to encourage open discussion of ideas and issues, then what's wrong with holding that debate?

- Leonard Inskip is a Star Tribune columnist and editorial writer.

LANGUAGE: ENGLISH

LOAD-DATE: February 8, 1996

LEVEL 1 - 157 OF 166 STORIES

The Buffalo News

November 14, 1995, Tuesday, CITY EDITION

SECTION: EDITORIAL PAGE, Pg. 2B

LENGTH: 183 words

The Buffalo News, November 14, 1995

HEADLINE: DISSERVICE TO SCHOLARLY WORK ON HATE SPEECH

BODY:
I must object to the unfair and inaccurate description a News reviewer painted of contributors to the anthology "The Price We Pay: The Case Against Racist Speech, Hate Propaganda and Pornography." It is not helpful to mislabel legal scholars making a contribution to an ongoing dialogue on harmful speech.

"The Price We Pay" has contributions by such renowned scholars as Frank Michelman of Harvard Law School; Frederick Schauer, First Amendment scholar at the John F. Kennedy School of Government; Elena Kagan, assistant legal counsel for the White House; Charles R. Lawrence, at Georgetown Law Center; and Kimberle Crenshaw, Anita Hill's counsel.

None of these scholars are "pro-censorship," as The News review suggests. All of these contributors are exploring solutions to hate speech that fall well within the parameters of the current legal framework.

The reviewer did our book a great disservice by cavalierly throwing around inflammatory rhetoric and by not describing the real contents of the book or viewpoints of the authors.

LAURA J. LEDERER

Minneapolis, Minn.

LANGUAGE: ENGLISH

LOAD-DATE: November 16, 1995

LEVEL 1 - 158 OF 166 STORIES

The Associated Press

August 12, 1994, Friday, PM cycle

SECTION: Washington Dateline

LENGTH: 771 words

HEADLINE: Mikva's Political Skills To Be Tested As Clinton's New Counsel

BYLINE: By JAMES ROWLEY, Associated Press Writer

DATELINE: WASHINGTON

BODY:
A former Illinois legislator, five-term congressman and a federal appellate judge, Abner J. Mikva is about to embark at age 68 on a fourth career: White

House counsel.

After 15 years on the federal bench, Mikva is returning to the political playing field to serve the first Democratic president since he left Congress to become a judge.

"You are the most important client a lawyer could dream of serving," Mikva told President Clinton Thursday at a White House news conference to announce his appointment to succeed Lloyd Cutler.

Clinton called Mikva a man of "uncompromising integrity and judgment" who was "the right person for this job."

Friends, former law clerks and aides praised Mikva's political skills as particularly appropriate for the position of White House counsel - a job Cutler was tapped to fill temporarily when Bernard Nussbaum resigned under fire earlier this year.

While Nussbaum's critics charged he was politically tone deaf, Mikva's friends say he has unusually good instincts.

"He has extraordinary political judgment," said Elena Kagan, a former law clerk who teaches law at the University of Chicago, from which Mikva was graduated in 1951 as editor in chief of the law review.

Mikva "has wonderful instincts in terms of what the right thing to do is, politically, ethically, legally," said Alan Morrison, who argued many cases before Mikva as director of the Public Citizen Litigation Group.

He also is praised for what friends say is an unusual ability to get along with all kinds of people, regardless of their political viewpoints.

"There is nothing more essential in his world view is people respecting other people, the ability to disagree without being disagreeable," said former aide Kenneth Adams.

"His opponents respect and like him," adds former Rep. Robert Kastenmeier, D-Wis.

Indeed, Mikva has a flare for showmanship rarely found in the sober ranks of the federal judiciary.

He once penned a critical review in TV Guide of "The People's Court," saying Judge Joseph Wapner was "doing for the law what 'Dynasty' does for monogamy."

"If we judges have to rely on you to improve our image, I want a change of venue," Mikva wrote.

Last year, he appeared briefly in the movie "Dave," a tale of Washington skullduggery, playing the chief justice who swears in a new president. The credits listed Abner Mikva playing "Justice Abner Mikva."

Despite a sunny personality, Mikva's life as a judge is not free of conflict. A leader of the court's liberal wing, Mikva's relations with Republican judges has sometimes been strained.

A discussion with fellow judges that included Kenneth Starr, now the Whitewater independent counsel, became so heated that Laurence Silberman told Mikva: "If you were 10 years younger I would be tempted to punch you in the nose."

Silberman, who recounted the incident in 1991 to dispute a report he threatened to hit his colleague, wrote that "Judge Mikva did not become 10 years younger, our tempers receded and we continued our discussion of the case."

Republican judges accused Mikva two years ago of squelching an investigation of who leaked the draft of an unpublished opinion Judge Clarence Thomas had written while his nomination was pending in the Senate.

The Thomas opinion dealt with affirmative action and both Mikva and his Republican colleagues deplored the leak.

But Mikva issued a statement that "by once again calling attention to the matter, however, judges who feel compelled to air this disagreement injure the court further."

A law clerk for Supreme Court Justice Sherman Minton, Mikva practiced law in Chicago and served a decade in the Illinois Legislature before his election to the House in 1968.

He served two terms representing the south side of Chicago, vocally opposing the Vietnam War and proposing strict handgun control. He won three elections to a North Shore district seat beginning in 1974, but eventually decided his political future in the heavily Republican district was shaky. Mikva sought a judgeship "when it became clear that (Jimmy) Carter was going to be a one-term president," Adams said.

But during Senate confirmation, conservative Republicans objected to Mikva's gun-control stance, arguing he would legislate from the bench. Mikva argued that he knew the difference between judging and legislating and finally won confirmation on a 58-31 vote.

Mikva will resign from the bench shortly before taking over from Cutler on Oct. 1. Since he sits on a court that deals with important governmental actions, Mikva won't vote on any cases that involve the Clinton administration, Cutler said.

LANGUAGE: ENGLISH

LOAD-DATE: August 12, 1994

LEVEL 1 - 159 OF 166 STORIES

Chicago Sun-Times

June 13, 1994, MONDAY, Late Sports Final Edition

Chicago Sun-Times, June 13, 1994

SECTION: FINANCIAL; BUSINESS APPOINTMENTS; Pg. 46

LENGTH: 630 words

BODY:

Great Lakes Chemical Corporation elected Dr. Richard H. Leet a director.

Chicago Youth Centers appointed Alan G. McNally of Harris Bank and Harris Bankcorp a director.

Health o meter Products re-elected Lawrence Zalusky, Robert W. Miller and Thomas R. Shepherd of Thomas H. Lee Co. directors.

Elmhurst College elected Frederick C. Ford of Draper and Kramer and James S. Yerbic of Duchossois Industries trustees.

Administrative Conference of the United States appointed Joan Z. Bernstein of Chemical Waste Management Corporation and Elena Kagan of the University of Chicago Law School members.

Hiffman Shaffer Anderson promoted Richard E. Hulina to president, retail division and senior executive vice president; Keith Bank to principal and executive vice president, retail division; and Edward M. Zifkin to vice president, retail brokerage and director, retail leasing.

Timothy L. Brown joined Coronet Insurance Company as executive vice president and chief operating officer.

Kemper Financial Services promoted J. Patrick Beimford Jr. and Gary A. Langbaum to executive vice presidents; and David H. Butler to first vice president.

Frank J. Corbett Inc. promoted Elaine Eisen and Neil A. James to senior vice presidents and management supervisors; and Lori A. Kewin to vice president, agency services.

Fiduciary Management Associates named Lloyd J. Spicer senior vice president and portfolio manager.

Gail Carter joined Schafer Condon as senior vice president and group account director.

Kemper Securities appointed Don Andrews, Leslie A. Sammarco and Renan Sugarman vice presidents and senior attorneys.

Deerbank Companies promoted William Fisher to vice presi Lloyd J. Lightfoot Spicer

dent; David Quinn to assistant vice president; and Lisa Bertagna to manager, commercial real estate.

LaSalle National Corporation named Craig R. Schmidt vice president and deputy manager, loan review division.

Dennis R. Oster joined PlainsBank of Illinois as vice president, commercial banking.

Serta Inc. promoted Al Klancnik to vice president, operations; and Linda Stadler to director, sales support.

David M. Webster joined A.T. Kearney as vice president and general counsel.

Christina Fitzgerald joined Anderson Schroud Group as vice president, property management.

Horace Mann Educators Corporation named Ann Caparros vice president and general counsel.

Sharon A. Alister joined Wertheim Schroder & Co. as vice president, private investors.

The Quaker Oats Company named James T. McConnaughay vice president, supply chain.

Paul E. Pliester joined Mesirow Financial as vice president, preferred trading.

William J. Burda Jr. joined LaSalle Bank Lake View as vice president.

TCF Bank promoted Marci L. Semiche to assistant vice president and accounting manager; Lou Campos assistant vice president; and Dave Swislow to assistant controller.

LaSalle National Bank named Dale R. Kluga first vice president and deputy division head; Peter R. Blindt and Heather D. Curtis vice presidents; G. Paul Fogle, Jay C. Goldner, C. John Mostofi, Mark T. Ostrowski, Denise L. Kuziw, Beth Max, Sarah E. Turoff and Pamela L. Bryant assistant vice presidents; J. Brett Rose investment officer; Pamela D. Eskra to asset based lending officer; and Isabel C. Kelly systems officer.

Columbia College Chicago named Jean H. Lightfoot dean of students.

Chicago Cable Marketing Council named Trish Ball executive director.

Illinois Financial Services Association named Zack Stamp executive director.

Taylor-Johnson promoted Donna Hamaker to director, advertising.

OakGrisby Inc. named Bruce Albelda director, marketing.

General Instrument Corporation named Michael M. Ozburn director, industry affairs.

Norton, Rubble and Mertz named Susan Cieslak media director.

LANGUAGE: English

LN-ACC-NO: MOVE13061994

Chicago Sun-Times, June 13, 1994

LOAD-DATE: June 14, 1994

LEVEL 1 - 160 OF 166 STORIES

January 16, 1994 Sunday, FINAL EDITION

SECTION: TEMPO; Pg. 1; ZONE: C

LENGTH: 2039 words

HEADLINE: IN HIS COURT;
MIKVA BRINGS A POLITICIAN'S PERSPECTIVE TO THE FEDERAL BENCH

BYLINE: By Michael Kilian, Tribune Staff Writer.

DATELINE: WASHINGTON

BODY:
Abner Mikva is still somebody nobody sent.

The one-time liberal activist from Chicago's Hyde Park has had as long and rewarding a public career as any honest Illinois politician could want. He has been a state legislator representing the South Side, a member of Congress representing Chicago and then the North Shore, a federal judge and, since 1991, chief judge of the U.S. Court of Appeals for the District of Columbia.

"Mifka," as Mayor Richard J. Daley used to mispronounce his name, was even viewed during the Carter administration as next in line for a Supreme Court vacancy. But before one came, the country had settled into 12 years of Republican rule.

Still, Mikva has found more than just leftovers at the D.C. appeals court, which is often called the "baby Supreme Court," reflecting its status as the second most important court because its caseload is so dominated by the review of federal laws and actions. As chief judge, Mikva, who joined the court in 1979, may well have more influence than he ever did as a legislator.

For all his tenure and stature, the sport-coat-wearing Mikva still seems much the same rough-edged, plain-spoken, shiny-eyed, feistily independent, unabashed liberal he was when he and Chicago politics first met up.

That was during the elections of 1948. As a University of Chicago kid wanting to work in the reform campaigns of Paul Douglas for U.S. senator and Adlai Stevenson for governor, he walked into 8th Ward Regular Democratic Organization headquarters ready to sign up. The response, enshrined in a chapter of professor Milton Rakove's 1979 oral history on Illinois politics, "We Don't Want Nobody Nobody Sent," went like this:

"I came in and said I wanted to help," Mikva told Rakove. "Dead silence. 'Who sent you?' the committeeman said. I said, 'Nobody.' He said, 'We don't want nobody nobody sent.' Then he said, 'We ain't got no jobs.' I said, 'I don't want a job.' He said, 'We don't want nobody that don't want a job. Where are you

from, anyway?' I said, 'University of Chicago.' He said, 'We don't want nobody from the University of Chicago.' "

Eight years later, after the first statewide reapportionment in decades created a Hyde Park legislative district with no incumbents, Mikva avenged this churlishness by getting elected to the Illinois House, where he served for 10 years. Among those campaigning for him in that 1956 contest was Eleanor Roosevelt, whose picture still hangs above his desk.

Mikva, who will turn 68 on Friday, now has diminished prospects of joining his former Appeals Court colleagues-Antonin Scalia, Clarence Thomas and Ruth Bader Ginsburg-on the nation's highest bench, even with a Democrat in the White House.

"As one of my friends said, 'How does it feel to be too old, too white, too male and too liberal?' " Mikva said in an interview. He laughed, which he often does, then became philosophical, as he also often does.

"It's like saying to someone, 'Shouldn't you be president?' There are times when I think I would have been a good president-not often-and there are times when I think I would have been a good Supreme Court justice, but there are nine of them in the whole, wide world, and it's a combination of timing and politics and age and attitude and history. I saw Ruth the other night. She's doing well, and enjoying it. I'm chief judge here, and enjoying it."

Activist to pragmatist

There are few judicial jobs of such consequence as Mikva's. Unlike the other 11 federal circuit courts of appeals, the District of Columbia's is considered a national rather than regional court. Half the caseload of the court involves challenges to federal agency actions, and the government is a party in some fashion to about 90 percent of the cases, including criminal appeals.

"We frame the questions for the Supreme Court," Mikva said.

Recently, Mikva wrote majority appeals court panel opinions involving gays in the military and the debate over the North American Free Trade Agreement, rejecting a demand from environmental groups that the president be directed to produce an impact statement before proceeding with adoption of NAFTA.

"To order the president to do something before he submitted something to Congress-that's a relationship that's so clearly political . . . the court should not get involved," Mikva said. "This is something that should play out on the political stage."

In his early days, Mikva was routinely called a "bomb thrower," "a bleeding heart," "an ultraliberal" and "a left-wing labor lawyer." In addition to representing the steelworkers union and other labor groups as a young partner in Arthur Goldberg's Chicago law firm, Mikva was an early and vocal champion of abortion rights and gun control, and a trenchant foe of the death penalty.

Given his convictions and long-standing reputation, one would have expected Mikva to be a liberal activist much like his predecessor as chief judge, David Bazelon, who served on the court for three decades and gave it a decidedly liberal stamp. But Mikva surprised many by being less an activist than a

pragmatist-by imposing upon the judicial process the experience, attitudes and understanding he gained in 20 years as a state and federal lawmaker.

"Judge Bazelon was not a great fan of the legislative branch," said Mikva, whose office window offers a broad view of the U.S. Capitol. "I've had an altogether different view of how to interpret statutes and also a different view on how the court should function."

A congressman's touch

For example, during the interview Mikva criticized the Supreme Court for stepping in with its sweeping and divisive abortion decision in 1973, Roe vs. Wade, when state legislatures throughout the country were already moving to change abortion laws. In contrast, he said the 1954 Warren Court was right in moving against segregated schools with its Brown vs. Board of Education decision, because no legislature in the nation was doing anything about segregated schools, "including Illinois'."

The legal community seems in agreement that Mikva has brought a congressman's touch to the court, but not everyone applauds the result (some, such as his conservative former appeals court colleague Robert Bork, declined to comment at all).

Mark Tushnet, associate dean of the Georgetown University Law School and a professor of constitutional law, said, "His work is well-respected, but some constitutionalists might say he is too political; that he hasn't left behind enough of his past experience."

Attorney Robert S. Bennett, a well-known litigator in the Skadden, Arps, Slate, Meagher & Flom law firm and counsel to embattled U.S. Rep. Dan Rostenkowski (D-Ill.), called Mikva's political input a plus: "I think the court is very fortunate to have a member who came to the court from Congress-the real world-and brings an appreciation of the real world's ways to it."

Elena Kagan, assistant professor at the University of Chicago Law School, was a law clerk for Mikva. "He demanded a lot, but he was completely fair and was extremely tolerant," she said. "I learned a lot from him: how government works, how it can be expected to work . . . things I wasn't taught at (Harvard) Law School."

The conservative Washington Times, published by the Unification Church, recently accused Mikva of rigging court panel selections so that he and liberal Carter appointees Patricia Wald and Harry Edwards would hear three cases involving "the most critical constitutional issues to come before the . . . court in a year," including the matter of gays in the military. Scoffed Mikva, "It's all done by computer."

There's a computer-with CD-ROM-at his long, curving, highly functional desk, but he likes to do much of his work standing at a lectern set by the window with the view of the Capitol. He and his wife, Zoe, live on Capitol Hill-and enjoy an active Washington social life, counting numerous members of Congress, past and present, and even muckraking author Kitty Kelley among their many friends. But they think of themselves as Chicagoans.

'A rootless city'

"Chicago is a state of mind," he said. "It's not a place. This (Washington) is a rootless city. Everybody here is from someplace else."

Mikva's parents were Ukrainian Jews, his father a Milwaukee life-insurance agent who lost his job in the Depression and never really regained full employment.

"I remember being on what was then called 'outdoor relief,' " Mikva said. "The books we had were stamped, 'Property of Milwaukee County Outdoor Relief.' They never gave you cash, everything was in kind: clothing that was recognizable as relief clothing, blue stocking caps and big, bulky shoes. Food that you'd pick up in a wagon."

He went to the University of Wisconsin, transferring to Washington University in St. Louis to be near Zoe, whom he had met on a blind date. Mikva served in World War II as a navigator in the Army Air Corps, then enrolled in the U. of C. Law School, graduating cum laude in 1951 and serving as a law clerk for U.S. Supreme Court Justice Sherman Minton.

"I originally wanted to be an accountant," he said. "She (Zoe) said, 'What do you want to be an accountant for? All they do is make money.' "

Elected to the Illinois House at 30, he found himself in Springfield with a handful of fellow liberal independents-Bob Mann, Leland Rayson, Bob Marks, Howard Katz, Paul Simon and lifelong friend Tony Scariano-who proved to be thorns in the sides of Daley and Republican Gov. William Stratton.

"Abner was the leader," said Scariano, now an Illinois Appelate Court judge. "We used to have a lot of fun giving people like Paul Powell (then-Illinois secretary of state) a hard time."

A sense for 'neighborhood'

Mikva still spends "a good piece of every summer" at his lakeshore retreat near New Buffalo, Mich. It was there that he used to encounter his longtime nemesis, Daley, who had a summer home nearby.

"It astounded him that this radical Hyde Park liberal was a family man," Mikva said. "He never could pronounce my last name right. He used to call me 'Ab,' and Zoe 'Mrs. Ab.' "

The Mikvas have three daughters, all married: Mary Mikva, a Chicago lawyer; Laurie Mikva, a Champaign attorney; and Rachel Mikva Rosenberg, a Chicago rabbi.

"There was nothing in her (Rachel's) background that would have led her in that direction," he said, "except that she was determined she wasn't going to be a lawyer. Her two sisters bored her silly when they started talking about the law, so she found ancient law instead."

The Mikvas have five grandchildren, "one of the great joys of life."

"We go back to the old neighborhood and swing our grandchildren in the same playground swings we used to swing her (Rachel) on," Mikva said. "It's given

me a perspective on community that I never had until I had grown children and grandchildren. I put in the first 'open occupancy' fair-housing bill in the state legislature. It caused a great deal of commotion. I never quite understood the opposition to it.

"But I thought about that as I was swinging my grandchildren on these old swings. There's an expectation that is broken whenever neighborhoods change, especially if you're a poor family. You think your children are going to grow up within walking distance and your grandchildren are going to grow up there. It's like the little villages my parents came from in the Ukraine."

The Mikvas make use of an odd Illinois law that allows him, as a transplanted federal employee, to vote by absentee ballot from his old address in Evanston, which he represented for three terms in Congress.

"We try to vote only once," he said, making fun of the old Democratic machine, which now seems long gone.

"There may be a few wards left on the Southwest Side, and maybe on the Northwest Side, where there's still something resembling the old precinct-captain organization," he said. "But the endorsement of the machine is now almost a wash. It costs you as much as it helps. Look at the people from the West Side running against the organization-the South Side." He paused, and smiled. "They're now taking people nobody sent."

GRAPHIC: PHOTOS 2; PHOTO (color): Judge Abner Mikva in his office. He has a view of the Capitol, where he used to make laws as a congressman from Illinois.; PHOTO: Judge Abner Mikva at work in his chambers. Though he lives in Washington, he and his wife cast Illinois absentee ballots. "We try to vote only once," he says, making fun of the old Democratic machine. Tribune photo by Ernie Cox Jr.

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Contemporary Women's Issues

Off Our Backs

April 1993

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HEADLINE: Speech, Equality, and Harm: Feminist Legal Perspectives on Pornography and Hate Propaganda: [Part 2 of 4]

HIGHLIGHT:
The full text discusses a conference held on legal issues regarding hate

speech and pornography

BODY:
protecting penthouse

Now compare the lynching photographs and the snuff films to the Penthouse spread of Dec 1984 in which Asian women are trussed and hung. One, bound around the legs with a thick rope, appears to be a child. All of these express ideology. All of this had to be made, all of this had to be done to someone. If used at work, this penthouse spread would create a hostile unequal working environment actionable under federal sex discrimination laws. But you know there is no law against hostile unequal living environments on the basis of sex discrimination. So everywhere else that is protected speech.

"Not long after this issue was released, a little Asian girl was found strung up and sexually molested, dead in North Carolina. Suppose the murderer consumed the Penthouse. He actually admitted to having spent much of his day at an adult bookstore. Suppose the murderer consumed the penthouse, hypothetically, then went and killed the little girl. Such linear causality and obsession for pornography is not all that rare and difficult to prove. It is only one effect of pornography. When something has that effect, is restricting those pictures thought control? This was the quote and judicial epithet used to invalidate the law Andrea Dworkin and I wrote on pornography. Would you call that little girl's death something that Penthouse said? 'She was killed because of its content'. Should it be protected?

"As you know, pornography is protected in this country. It is protected by the state. Its protection essentially relies on putting it into the context of silence about violence against women. The context of its as idea or viewpoint totally derealizes the subordination of women and erases what is a technologically sophisticated trafficking of women and makes it into a consumer choice of expressive content. It turns abused women into a pornographer's thoughts or feelings. It is in this approach that pornography falls into the category of speech.

"In current law pornography is essentially treated as a form of defamation. In a sense it is treated in terms of the context of what is says that is negative about women. I would argue that it is a form of discrimination. Not in terms of what is says but in terms of what it does. That exactly is the measure of the harm that only pornography can do. On the basis of this reality Andrea Dworkin and I have defined pornography as the graphic sexually exclusive material that subordinates women. Any graphic sexually explicit subordination of women. This is exactly that activity which only pornography does. It embodies its function as defamational in the way it subordinates women on the basis of sex and as sex discrimination.

"I am not saying that pornography is conduct and therefore not speech. Or that is does things and says nothing. Or all its harm is not content. What I am saying is that at stake in constructing pornography as speech (in opposition to conduct) is gaining constitutional protection for doing what pornography does. Subordinating women through sex. This is not content alone nor wholly other than content. What it is, is its function. The meaning of pornography in the sense of its content may be an interesting problem. Our problem is the meaning of pornography to women and what it does to our lives."

Catharine MacKinnon's address was driven forward by her strong speaking voice. From the opening words to the last's in 'lives' she moved her argument from point to point with important issues driven by the word 'that'.

Her message is "Speech acts -- acts speak" -- the intertwining of speech and action in pornography via pictures, context, and words as a pervasive means to subordinate women is the harm of pornography. Her question remains. When will the courts understand that this subordination of women also places women in an unequal status with men? Will MacKinnon continue to argue her pornography issue on the basis of the First Amendment? Is so, then she must also argue with Supreme Court Justices who can differentiate between nude dancers as pornography and dancers in g-strings as not pornography. Who see Asian women hung and trussed and do not act because it would be 'thought control' rather than a photo that violates the sensibilities of the reader's mind (and the safety of a woman's body). Considering the obstacles, the battle looks steeply uphill. This conference was a step uphill and at this point I would recommend a good pair of hiking boots. It will be a long march.

Lunch and Roundtable Discussion: On Freedom of Expression

It's now time for the Lunch and Roundtable Discussion. We are already behind schedule and everyone is on a mission to find food and restrooms with short lines. Somehow 600 people settle into the Green Lounge and the discussion "On Freedom of Expression" begins.

Elena Kagan discusses some conceptual difficulties on freedom of speech. One is that it takes a viewpoint to view another viewpoint, a dilemma in determining the correct viewpoint. Secondly, that some viewpoints are government regulated, and thirdly that free expression is not the only value to consider. Free expression can have its consequences and/or harm.

The government is not free from its own viewpoint when interpreting the law. The government favors some messages above others. These messages are more often used against women. Therefore there must be a change in consciousness of juries and judges and perhaps obscenity laws could then be more useful.

Elena is followed by other speakers but the legal speech is becoming a dull thud. Somewhere in the midst of this not so heated discussion my eyes wander to the picture window behind the speakers. A demonstration is beginning to form. I let my tape player wind on and I exit to see Freedom of Speech in action.

Standing in center court had most noticeable is Carol Leigh, also known as Scarlot Harlot. She's a prostitute who regularly attends these discussions asking for recognition as a working prostitute. One of her issues with the anti-pornography movement is that the working girls and women who are poor will be the victims of these laws -- that there is nothing being done for the protection of the women who are the most vulnerable.

A debate ensues among the gathering crow. Hypothetically speaking would there be a demand for prostitution if there was equality between the sexes? Or does prostitution exist because of the inequality? Good questions. Before the debate becomes heated a demonstration begins.

Off Our Backs April 1993

A group of 4-5 young women in support of prostitution begin a march around the courtyard. They are dressed in boots, in black leather, in cut off tops with words across their bodies "sluts and whore power". The police escort them away from the picture windows. People move in to question them.

These women feel the anti-pornography campaign stigmatizes women in the sex industry. They say it will result in a loss of all sexual imagery at a time when women are just beginning to discover their won sexuality. They base their protest on the action taken by the Canadian courts. The First pornography confiscated by the government was "Bad Attitude", a lesbian magazine.

They also have a great distrust of the legal system. They believe that it is a misconception that we can use the law to clearly define pornography and to protect women at the same time. No matter what, white males will come out on top. Their argument is two fold: first the issue of women being censored at a rate greater than and more frequently than the white male and secondly, can we trust a white male judicial system? Honest questions from the generation that will have to live with the consequences of uncontrolled pornography in American society. Consequences such as rape, abuse, mutilation, and daily assaults that will continue for generations to come. It will be their generation to feel the full effects of pornography for the effects have only begun to be recorded and validated as women are just now beginning to speak and validate their harms.

I spoke with Connie from WHISPER. (WHISPER is an organization that helps women leave prostitution.) This woman left prostitution about ten years ago. She tried to speak to these demonstrators and tell them the grim side of the business.

Connie presently works with juveniles who have been active in prostitution, eight to ten teenage males and females. 100% are incest survivors, victims of the inequality between adults and children. Many young people runaway to escape incest and abuse. Within 24 hours they are picked up by a pimp. At first the young person feels... I can handle this, I've lived with worse at home. Within days the young people find themselves trapped mentally, emotionally, and physically, their lives are worsened by the pimp and no escape is possible. Drugs become the means to escape the daily sexual abuse. The mind can take no more. They've been physically and emotionally subordinated. Connie asks ... Where is the equality in all of this?

She was in agreement with the demonstrators on one issue. That women will be the victims of the anti-pornography laws in that some women have no recourse. This id due to their extreme state of poverty poverty is as subordinating as prostitution. We must work the poverty issue in conjunction with the anti-pornography issue.

As a parent she is now raising two sons. She finds this a challenging and discouraging task. she asks.. In a society bereft of humanity towards women, how do we raise sons to respect women as their equals?

As Connie spoke it was evident that she was greatly disturbed by the protestors. She tried to impress upon them that legalizing prostitution will never take away the scar that she carries with her forever. Once you've been a prostitute you can't leave it behind and choose another career, she said. It travels with you. The pain in her face made me believe that the scar had not yet completely healed. Maybe it never will.

The roundtable discussion 'On Freedom of Expression' became a living interaction between prostitute, demonstrators, the inquisitive crowd and the media. Freedom of speech in action.

Kathleen Barry, author of Female Sexual Slavery, gave a keynote speech entitled "Sexual Exploitation". After her presentation I spoke with Kathleen about the demonstration that was seen during the lunch break. Kathleen's response was to see those women as women who have experienced the worst conditions of sexual exploitation, an exploitation that has permeated their growth and development and defined what it means to be a woman in our society. The visual assault of pornography throughout television, magazines, movies, storefront and public transportation means that it is a struggle just to be a human being. There was a time when a pornography was not the main expression of sex but our young people have only experienced a pornographic, sexual society. This is their daily experience. She would like to convey to them the outrage of that experience. Not just the experience of women in extreme conditions but the experiences of our daily life. That there is something else about being human that our pornographic sexual society is not portraying. She has pain for the way women are being socialized by living and breathing in this society where pornography has dehumanized women. This is not a normal condition! Kathleen admits to growing up under subordination, but sexual subordination was not pervasive during the primary years of her life. The struggle with pornography is the issue that lives with these women. On the one hand, it is an ugly battle on the other hand women today have the advantage of the anger and struggle of the women who have gone before them.

Saturday afternoon plenary and panel discussions: Pornography and Prostitution

Evelina Giobbe spoke as a representative of WHISPER and as a former prostitute. (WHISPER is an organization that helps women leave prostitution.) "Prostitution is often a reflection of lower education level and the economic situation of the woman. Our society keeps women marginalized economically. This insures that there is a constant pool of women. The number of women in prostitution is untold. The numbers reported are much less than what is occurring. The average age that one enters prostitution is 14-16 years old. Often these are runaways. Young people fleeing sex abuse in their own homes. These homes have institutionalized sexual abuse.

Racism and classism increases one's vulnerability to prostitution. Why is that the RED ZONES appear in poor neighborhoods? The white male pimp views these poor, usually black neighborhoods as if they were his own plantation. There is an assumption among the white males that black women are available for white men. The unwritten law is that heterosexism, at any cost is the ultimate justification for prostitution.

"Prostitution is big business. $14 billion a year! Yet there are a token number of johns and pimps arrested. More often it is the prostitute who is arrested and then turned back over to the pimp. The legal system supports prostitution by rarely penalizing the pimp and, with a nod of the judge's head, he is released to continue his business.

"Pornography documents crimes against women. It is a sad statement of what occurs on a daily basis to women. Women are defined through pornography as commercial speech and as a product available to men. Pornography is the

technological recycling of prostitution.

If women question how pornography is used against them, they only need to visit a massage parlor. Pornography is given to the customer to read and it is used to stimulate the customer. Often the magazine is taken with the man and shown to the prostitute accompanied by the appropriate language "see the picture ... do this, bitch." Prostitutes are regularly exposed to pornography by the john."

Evelina tells of magazines and gives examples of pornography. She outlines the mitigating factors of economics and previous abuse at home, both of which prepare women to feed the pool of prostitutes. It is a life of pain. The vicious cycle of separating the mind from the abuse that is occurring is the only way to deal with this pain. Eventually the mind can take no more and the prostitute begins to use drugs. This enslaves her further to her pimp. Courts needs to understand how pornography effects the life of the prostitute." Evelina left us with these questions: "What about all the men who take the pornography home to their wives and to their children? Are we building homes of pain?"

Meg Baldwin addresses the misconception that pornography is just a picture. Pornography is not just a picture. Pornography is not just a picture, it is a "document". It is a document without the written word.

"There is a necessity for women to speak, without women's voices the pornography speaks for you. The prostitutes that are asked to speak, to testify, have no reason to trust the legal system. It was the legal system that hunted them rather than pursuing the john. When women do speak it is often turned against them. The jury and the courts do not want to hear how one becomes a prostitute or what that life is like. They want women to bear the shame and responsibility for the prostitution and of course the white males remains free. If the First Amendment was an effective amendment, ten women's voices would be heard instead, the amendment has made prostitution of women's speech.

"The speech of prostitution begins with the john telling the prostitute how to answer questions ... I do it for the money, for the freedom ... of my own free will. The speech of prostitution is the trick -- prostitute conversation. Tell me about yourself, the talk while doing the sex, and the phone sex that is so readily available.

"This speech is protected by the First Amendment. It protects the john's point of view. Men understand this and use this protection. This places women in a double bind. What are we allowed to talk about and who will validate what we are saying? What is worse, is what happens when we don't speak. When we don't speak, only the voice of men is heard, when only the voice of men is being heard then who is being censored? Women. Women who have been emotionally, physically prostituted only talk about men, all other speech has been censored out of their lives. The time to speak is now so that others will learn the value of their speech. Women's voices need to be heard."

Second Saturday afternoon panel: Pornography Victimization and Survival

"As an activist, my goal is to become pornography to the industry."

Ann Simonton

Opening this panel was Ann Simonton, activist. Her goal is to become pornography to the industry. She seeks out pornography in the media, tracks down editors and managers. Through the media literacy movement she hopes to increase the awareness of pornography in our lives.

One area not yet discussed was modelling. Most magazines glamorize their lives. Ann brought to light the life these women lead. They too seek separation of their mind and body to handle the constant sexual assault. Assaults that range from someone adjusting your bikini to cameramen masturbating behind their equipment. Drugs become the method of separating mind and body.

"Make men less anonymous."

Her most powerful point was "make men less anonymous." When you have been victimized name the assailant. Give the persecutor a name. This lesson was taken to heart and for the remainder of the conference for every case discussed the perpetrators name was spoken. If we do this, the perpetrator can no longer be anonymous. They must now take responsibility for their actions.

Third Saturday afternoon panel: Pornography Victimization and Survival

"Some people say pornography is all in the mind, and some people say that there is this absolute right of free speech and therefore protecting women like myself who had not been exposed to it, do not want to be exposed to it, have no need for it in their life in any way ... that right doesn't exist. And the fact that I am Afro American makes that fact more evident."

Olivia Young

"The atmosphere was brutalizing and it either toughened you up or it numbed you.

Barbara Trees

Barbara Trees is a carpenter. In her own words she speaks of her work experiences. "I entered the carpenter's union in NY City in 1980, I was one of the first females to graduate from the apprenticeship program. There were about 20,000 men in this union. The idea of women getting into construction was a good idea. That's where the money is. Made $25 per hour, didn't need that much education. Great equalizer. Jobs were there. But what has happened is those of use who have been in construction unions for ten to fifteen years have gone through a great deal of abuse to try to stay and to try to learn our trade and to try to encourage other women to come in.

"In 1990 I helped organize NY Human Rights Commission Hearings on sex and race discrimination in building trades. And when I wrote up my own testimony I based it on my experience and about ten years of abuse. My guts in turmoil, I went ahead and did it anyway, because I thought that by doing this, maybe we can establish a public record. I encouraged about twenty women to testify, twenty others came on their own. We were hoping for some changes from these hearings, that the city officials would help us and now, three years later, we are still waiting for change.

"What was established is that against women, pornography and sexual harassment are the favorite weapons. A woman that is sent to a construction site can be guaranteed that she will be the only woman whether there are five or one hundred men.

"The first five-six years I was in the carpenter's union, I tried desperately to fit in, and that really meant submerging most of the parts of me that were important. All the women had to do that to fit in.

"The job sites were dirty, work was hard. Women got the hardest jobs, contrary to what men will tell you. Men used the floor to pee and sometimes shit. The me we were supposed to learn the trade from had no intention of teaching us and thought it was preposterous that we were there. Some of them took it as their personal mission to remove women from the job sites. They were encouraging us to leave and they were not being nice about it.

"I was a radical feminist then, and I thought I knew men. But I did not know about these men. I had a sweet boyfriend, but these men were scary and belligerent. They did not want us "girls" around.

"The atmosphere was brutalizing and it either toughened you up or it numbed you. On my first job, I asked a young male carpenter for a saw blade and he said, I have a perfect blade for you in my bag. He knew exactly what he meant and I knew what he meant, and I was terrified. We were standing over an enormous hole and there had been several accidents already. I was afraid of him and years later when I saw him on a job, I had to fight myself to keep from moving off.

"Pornography is commomplace on these jobs. But so are filthy language, total contempt for women and wives, men pissing on the floor, women being given the work that is hardest to do, being the first laid off, women being made to do work that two or three men would normally do, lack of changing facilities for women or bathrooms with locks, men using binoculars to look at women in close-by buildings, yelling "There's one! There's one!" And I don't like to believe it, but I think there is a great deal more physical violence toward women than I know about.

"I know at least one young woman who had her jaw broken by her fellow construction worker and absolutely nothing was done to help her. And recently a young woman laborer I know was punched in the face by a man that's actually in my carpenters local.

"I found pornography humiliating. I tore it down. It also had a funny way of showing up where I was. One little picture, and nobody there claimed credit for it. And I remember at one point on my very first job, a beaver shot showed up by the water cooler, and I saw it and just took my hard hat off and smashed the closest man in the head. I said, 'Is that yours?'

"Men and women ignore pornography. But I could not ignore it. I had listened for years to the hatred of men for women and for their wives. I was told in so many ways that I wasn't wanted. I had had to work so hard, actually pushing men aside to do my work. I had to listen to filthy jokes about women and meanwhile be laid off first or be the first one out of work, with not having changing facilities, with having partners who would accidentally brush against my breasts or ass. And I had to put up with the idea of women as something so

funny and contemptuous, that the mere mention of women or their parts or breasts would leave smirks on these guys' face.

"I got sick, physically sick, quite sick, and I stayed out for a couple of years, and I vowed that if I went back, I would have to practice what I call pro-woman self-defense. I meant I'd gotten a sense of entitlement to the work if I wanted to do it. Also, to fight for the women in my union as if we were the most important people on earth. It meant not feeling a thing and not listening to the men bad mouthing the women, and that I took these remarks as insults, which they were.

"I founded the NY Tradeswoman in 1989 as a support group for women in the trades. Just recently, in the carpenter's union, myself and several other women carpenters have formed the first ever Women's Carpenter Committee in the NYC district. This is fairly historic because the resistance of union officials has been profound throughout the years.

"I was also appointed as a shop steward in 1990 by my business agent. Mostly as a way to calm me down a bit, shut me up. Everyone is always looking for the easy work and the steady work and shop stewards generally have that, but what I took it as was a mandate to fight even harder for women. As a steward, I'm the union representative of the carpenters on the job.

"The men who were my supervisors on the job feel they have the absolute right to display pornography on the construction site. Lois Robinson, who is a ship welder from Florida, I think knows from her battle that just to get them to remove the pictures and take them down is impossible. The pictures multiply, go into different places. To complain about pornography is dangerous. firing is common and for no reason. A contractor doesn't have to tell you why. The union doesn't want to hear about it. There is no grievance procedure and the mafia works everywhere. Those of us who are activists have nightmares of men coming and chopping down the doors to our houses. I've also had pornographic messages on my answering machine from guys who boasted that they were in my local.

"I was fired from a site after asking a foreman politely to remove a beaver shot from our shanty. I only learned a year later that this was the reason I was fired.

"I had a contractor tell me to go fuck myself when I asked him to remove the porn from the trailer, and as the steward, I went to the formal union.

"I told a teamster I wouldn't install a door on his shanty until he removed a nude picture. Later on that job, he chased me around waving a nude picture, telling me, 'This is good, this is beautiful.'

"When I asked a tin knocker to simply turn his large tool box that was covered with beaver shots away from the door so I wouldn't have to see it, he accused me of being ridiculous, that I should know better, that this was common in construction, that I had to fit in, I would be to blame if he were fired, that he had a wife and family to support.

"He also said those pictures are everywhere, and he's right, and can be bought anywhere, and he's right there too. I later had the same guy follow me glaring to the subway station.

"So if other women in construction do not want to complain about pornography, I can certainly understand why. I really think, though, that we can change these job sites, but we are not going to. What has happened is that the men are so resistant to women coming in that there are just not enough of us. And the present recession has just devastated us. We are first to be fired and the last to be sent out to jobs.

LANGUAGE: ENGLISH

TYPE: Journal; Fulltext

JOURNAL-CODE: OFFOURBA

LOAD-DATE: November 11, 1998

LEVEL 1 - 162 OF 166 STORIES

Legal Times

February 25, 1991

SECTION: Pg. 12

LENGTH: 1324 words

HEADLINE: Rap Group's Appeal;
Show-Biz Forces Rally for 2 Live Crew

BYLINE: BY JANICE HELLER

BODY:
2 Live Crew's fight to remain as nasty as they want to be has moved to a new battleground, and interest groups are banding together to protect the group's right to rap sexually explicit lyrics.

The case, which gained national notoriety last year when U.S. District Judge Jose Gonzalez Jr. of the Southern District of Florida ruled 2 Live Crew's album "As Nasty As They Wanna Be" obscene, is now before the Atlanta-based 11th Circuit Court of Appeals in a test of the first obscenity ruling involving popular music.

If upheld, the ruling will have a chilling effect on the entire music business, say lawyers for the recording industry. And lawyers outside the industry are worried about the implications for censorship of television programs and literature.

The distributor for the album has petitioned the 11th Circuit to overturn the ruling. Oral arguments will be heard next month. No date has been set.

So far, lawyers from the Recording Industry Association of America, the National Association of Recording Merchandisers, Home Box Office Inc., and the American Civil Liberties Union Foundation of Florida have filed amicus briefs seeking a reversal.

All argue that Gonzalez's ruling is an infringement on the rap group's First Amendment right to free speech. No amicus briefs have been filed in support of the judge's decision.

The case marks the first time the recording industry has joined with the ACLU and HBO to fight an obscenity ruling, says David Leibowitz, senior vice president and general counsel for the D.C.-based Recording Industry Association of America. (The association is also represented by Williams & Connolly partners Kevin Baine and Victoria Radd and associate Elena Kagan.)

"This case is of critical importance to the recording industry... . . The chilling effect it could have on the creativity of musicians can be very significant in the future," Leibowitz maintains.

Says HBO attorney Daniel Waggoner, a partner with Davis Wright Tremaine in Seattle: "People who don't protect people on the fringe might be next. If there are bad laws that are established, ultimately they are applied to other companies and creators."

HBO is interested in the case because it does not air "plain vanilla" programming, HBO's amicus brief states. Movies and concerts on HBO occasionally include sexually explicit language, nudity, and profanity.

The ACLU, meanwhile, feels so strongly about the issues raised in the case that it has petitioned the court to allow it to participate in oral arguments, says the ACLU's lead counsel, Steve Reich, an associate at D.C.'s Covington & Burling.

"Artists who express a minority point of view are going to have to worry about being prosecuted by society," Reich says. "We've now arrived at a time where if we don't like what someone's saying, it's OK to stop them from saying it."

Double Standard

Gonzalez's ruling is particularly worrisome because it flies in the face of a recent trend among courts to shy away from obscenity rulings for books, says Charles Ruttenberg, a partner at D.C.'s Arent, Fox, Kintner, Plotkin & Kahn who represents the National Association of Recording Merchandisers.

Ruttenberg cites books once pronounced obscene that are now mainstream and readily available: Theodore Dreiser's American Tragedy, declared obscene by a Massachusetts state court in 1930; D. H. Lawrence's Lady Chatterly's Lover, ruled obscene by a New York state court in 1944; and Henry Miller's Tropic of Cancer and Tropic of Capricorn, found obscene by a federal court in California in 1951 and affirmed by an appellate court in 1953.

Lyrics by 2 Live Crew are not nearly as explicit as language in some books sold today, Ruttenberg contends.

"What you're getting is a different standard for music and lyrics than for the words alone. . . . Somehow, if you put words to music, there's a greater chance of obscenity than if you put words in a book," Ruttenberg says. "I guess they're assuming people don't read."

The 2 Live Crew obscenity case began in Fort Lauderdale last March, when Broward County Circuit Judge Mel Grossman found probable cause to believe that "As Nasty As They Wanna Be" was obscene under Florida law.

The Broward County sheriff, Nick Navarro, told his deputies to inform owners of record stores of the obscenity ruling and warn them that further sales of the album would result in arrest.

Charles Freeman, a Fort Lauderdale record-store owner who defied the warnings, was convicted last year of selling obscene material. His case is on appeal.

The record's distributor, Skywalker Records Inc. (now Luke Records Inc.), sued Navarro in federal court, seeking a ruling from Judge Gonzalez agreed with Grossman, finding the album's songs, including "Me So Horny," to be unfit for any audience.

"Based on the graphic deluge of sexual lyrics about nudity and sexual conduct, this court has no difficulty in finding that 'As Nasty As They Wanna Be' appeals to a shameful and morbid interest in sex. . . . The evident goal of this particular recording is to reproduce the sexual act through musical lyrics," Gonzalez wrote in his June opinion. "It is an appeal directed to 'dirty' thoughts and the loins, not to the intellect and the mind."

The lyrics, Judge Gonzalez found, were "replete with references to female and male genitalia, human sexual excretion, oral/anal contact, fellatio, group sex, specific sexual positions, sadomasochism, the turgid state of the male sexual organ, masturbation, cunnilingus, sexual intercourse, and the sounds of moaning.

After Gonzalez's ruling, 2 Live Crew leader Luther Campbell and member Christopher Wongwon were arrested on misdemeanor obscenity charges after they performed the music at a Hollywood, Fla., concert. A warrant was later served on member Mark Ross. All three were eventually acquitted; the Broward jurors said they found political and artistic value in the music.

"'As Nasty As They Wanna Be' may not win artistic acceptance in judicial minds, but the relevant inquiry extends beyond the courthouse, into the community of differing views which may be held by any reasonable person," the rap group's attorney, Bruce Rogow, said in his brief appealing Gonzalez's obscenity ruling.

Rogow, a First Amendment attorney and professor at Nova University's Shepard Broad Law Center, noted that the group has nearly two million fans. "As Nasty As They Wanna Be" sold 1.7 million copies. The "clean" version of the same record sold 250,000 copies.

"The main issue is the serious artistic value in the work taken as a whole," Rogow says. "In a case like this, that means you just can't just listen to the words. You have to also consider the music."

Sheriff Navarro's attorney, John Jolly Jr., declines to be interviewed. Jolly, an associate with Fort Lauderdale's Shailer, Purdy & Jolly, stated in his brief to the appellate court that Gonzalez was correct in his finding of obscenity.

"It is obvious that such graphic depictions of sexual conduct do nothing to advance any serious artistic merit," his brief said.

But the ACLU and their allies contend that Gonzalez erred in his interpretation finding the music to be pornography not protected by the First Amendment.

"The band's use of the language of the inner-city streets does not make the album unartistic, unliterary, or lacking in serious value," the ACLU's brief states.

"Like Walker Evan's photographs of rural Southern life, Robert Frost's homely poetry, or Andy Warhol's renderings of Campbell's Soup cans, the 2 Live Crew's work makes art out of the stuff of everyday life."

Editor's Note: Home Box Office Inc., which has written an amicus brief in support of 2 Live Crew, is owned by Time Warner Inc. American Lawyer Media, L.P., an affiliate of Time Warner Inc., publishes Legal Times. This article was distributed by the Am-Law News Service.

GRAPHIC: Photograph, 2 Live Crew, led by Luther Campbell, awaits the outcome of an appeal of an obscenity ruling against its album "As Nasty As They Wanna Be." WIDE WORLD PHOTOS; Picture, Recording industry lawyer David Leibowitz: Rap case may have "chilling effect." PHILIPPE JENNEY

LANGUAGE: ENGLISH

LEVEL 1 - 163 OF 166 STORIES

March 15, 1990, Thursday

SECTION: Pg. 5

LENGTH: 247 words

HEADLINE: Corporate Decisions in the Second Circuit

BYLINE: COMPILED BY JACQUELINE M. BUKOWSKI

BODY:

Weitzman v. Stein

Civil Procedures

1990 NY Law Publishing Co., New York Law Journal, March 15, 1990

Defendant Accused of Lying Has Assets Frozen

An injunctive order freezing the respondent's assets was reversed and remanded March 1.

Judge Amalya Kearse, writing in Weitzman v. Stein, 89-7861, found that not only was the injunction order freezing Mrs. Stein's assets incorrect, but that without a hearing, it was unclear whether the court had jurisdiction over Mrs. Stein, a Florida resident. The action, which dates back to 1970, seeks to compel Mrs. Stein to turn over assets given her by her late husband from F.I.F. Consultants and Investment Bancshares Inc. Mrs. Stein was called to New York under the "long arm" doctrine, because her agent/husband handled business here. Mrs. Stein's assets had been frozen when, after surprise questions about the amount of the assets and how much she needed to live on, she failed to answer on the spot. She was accused of lying and the injunction was issued.

Louis Venezia of Venezia & Haber represented the Plaintiff. Arthur Halsey Rice of Rice & Reiser in Miami, Florida, was counsel to the defendant.

U.S. v. Chuang

Banking Law

Claims Document Seizure Violates 4th Amendment

A judgment convicting Kuang Hsung J. Chuang of misapplication of bank funds, false statements to bank officials and conspiracy, was upheld Feb. 28.

Judge William H. Timbers, writing in U.S. v. Chuang, 89-1309, held that bank documents seized by the Office of the Comptroller of the Currency were properly admitted as evidence of bank fraud. The OCC examiners appeared with an administrative supoena after hearing complaints about Golden Pacific National Bank's non-negotiable certificates. Although a corporate officer has a legitimate expectation of privacy in his own work space, the documents in question were not taken from his personal office. Supreme Court holdings have established that "The expectation [of privacy] is particularly attenuated in commercial property employed in closely held industries."

Assistant U.S. Attorneys Herve Gouraige, Martin Klotz and Kerri M. Bartlett from the office of Otto G. Obermaier, U.S. Attorney for the Southern District of New York represented the prosecution. Partner Robert S. Litt and associates Bruce S. Oliver and Elena Kagan, of Williams & Connolly in Washington, D.C., were counsel for the defendant.

LANGUAGE: ENGLISH

LEVEL 1 - 164 OF 166 STORIES

October 17, 1988

1988 The National Law Journal, October 17, 1988

SECTION: Pg. 3

LENGTH: 1230 words

HEADLINE: 36 New Clerks for the High Court;
Almost Half Are From D.C. Circuit

BYLINE: BY MARCIA COYLE, National Law Journal Staff Reporter

DATELINE: Washington

BODY:

During the October 1988 term of the U.S. Supreme Court, 36 law clerks -- nearly half coming from clerkships at the U.S. Circuit Cout of Appeals for the District of Columbia -- will be assisting the justices with what one former clerk calls the "daunting" workload of the nation's high court.

The D.C. Circuit was once "home" to 17 of the new Supreme Court clerks. The 2d Circuit provided the justices with five new clerks, and four of the 36 come from federal district court clerkships.

And even though Judge Douglas H. Ginsburg and former Judge Robert H. Bork, both of the D.C. Circuit, last year failed to win seats on the high court bench, five of their former clerks are now in justices' chambers -- two with Justice Anthony M. Kennedy and one each with Justices Thurgood Marshall, Sandra Day O'Connor and Antonin Scalia.

Twelve law schools are represented by the 36 new clerks. Harvard University Law School and Yale Law School provided the most clerks this term -- eight each.

The clerks also hold degrees from the University of Chicago Law School (four clerks), Columbia University School of Law and Stanford University Law School (three each), University of Virginia School of Law, Northwestern University School of Law and University of Michigan Law School (two each), and University of Iowa College of Law, Emory University School of Law, University of Miami School of Law and New York University School of Law (one each).

The arrival of the new clerks obviously signals the departure of last term's clerks. The former clerks have taken jobs primarily with law frims around the country.

Jones, Day, Reavis & Pogue recently hired five of last term's clerks and three from earlier terms. Two former clerks are now working in offices of New York's Skadden, Arps, Slate, Meagher & Flom. Presidential campaign committees have drawn two other former clerks, as have public defender offices in New York and Washington, D.C.

The following is a list of the new clerk,s their law schools and their previous clerkships, and the former clerks and their new positions:

Chief Justice William H. Rehnquist

New clerks: Lindley J. Brenza, Chicago (Judge Frank H. Easterbrook, 7th Circuit); Robert J. Giuffra, Yale (Judge Ralph K. Winter Jr., 2d Circuit); Melissa L. Saunders, Virginia (Judge J. Dickson Phillips Jr., 4th Circuit)

Former clerks: J. Anthony Downs, Boston's Goodwin, Procter & Hoar; Richard C. Miller, Latham & Watkins in Washington, D.C.; William L. Taylor, undecided

Justice William J. Brennan Jr.

New clerks: Timothy S. Bishop, Northwestern (Judge James L. Oakes, 2d Circuit); Lisa E. Heinzerling, Chicago (Judge Richard A. Posner, 7th Circuit); Eric P. Rakowski, Harvard (Judge Harry T. Edwards, D.C. Circuit); John M. West, Michigan (Judge Harry T. Edwards, D.C. Circuit)

Former clerks: Einer Elhauge, University of California at Berkeley School of Law; Mark H. Epstein, Los Angeles' Munger, Tolles & Olson; Joseph R. Guerra, Washington, D.C., office of Chicago's Sidley & Austin; Joshua Rosenkranz, Appellate Division of the New York Public Defender's Office

Justice Byron R. White

New clerks: Christopher R. Drahozal, Iowa (Chief Judge Charles Clark, 5th Circuit); Stephen A. Higginson, Yale (Chief judge Patricia M. Wald, D.C. Circuit); Ronald A. Klain, Harvard, serving his second term with Justice White; Laura A. Miller, Yale

Former clerks: Albert J. Boro Jr., San Francisco office of New York's Skadden, Arps, Slate, Meagher & Flom; Richard Cordray, Columbus, Ohio, office of Jones, Day, Reavis & Pogue; will leave Jones Day in January to clerk for Justice Kennedy; Barbara McDowell, Washington, D.C., office of Jones, Day, Reavis & Pogue

Justice Thurgood Marshall

New clerks: Debra L.W. Cohn, New York Unversity (Judge James L. Oakes, 2d Circuit); Paul A. Engelmayer, Harvard (Chief Judge Patricia M. Wald, D.C. Circuit); Jonathan D. Schwartz, Stanford (Judge Harry T. Edwards, D.C. Circuit); Margaret E. Tahyar, Columbia (former Judge Robert H. Bork, D.C. Circuit)

Former clerks: Michael Doss, Washington, D.C., office of Jones, Day, Reavis & Pogue; Elena Kagan, Dukakis-Bentsen Campaign in Boston; Harry Litman, will clerk for Justice Kennedy for six months beginning in January; Carol S. Steiker, District of Columbia Public Defender Service

Justice Harry A. Blackmun

New clerks: Edward B. Foley, Columbia (Chief Judge Patricia M. Wald, D.C. Circuit); Kevin M. Kearney, Emory (Judge James L. Oakes, 2d Circuit); Edward P. Lazarus Yale (Judge William A. Norris, 9th Circuit); Deborah C. Malamud, Chicago (U.S. District Judge Louis H. Pollak in Philadelphia)

Former clerks: Emily Buss, undecided; Danny Ertel, Washington, D.C., office of New York's Debevoise & Plimpton; Ann M. Kappler, undecided; Alan C. Michaels, undecided

Justice John Paul Stevens

New clerks: Diane M. Armann, Northwestern (U.S. District Judge Prentice H. Marshall in Chicago); Abner S. Greene, Michigan (Chief Judge Patricia M. Wald,

D.C. Circuit); Randolph D. Moss, Yale (U.S. District Judge Pierre N. Leval in New York

Former clerks: Teresa W. Roseborough, Atlanta's Sutherland, Asbill & Brennan

Justice Sandra Day O'Connor

New clerks: Adalberto J. Jordan, Miami (Judge Thomas A. Clark, 11th Circuit); Daniel M. Mandil, Columbia (Judge Ruth Bader Ginsburg, D.C. Circuit); Andrew G. McBride, Stanford (former Judge Robert H. Bork, D.C. Circuit); Jane E. Stromseth, Yale (U.S. District Judge Louis F. Oberdorfer in Washington, D.C.)

Former clerks: Sharon L. Beckman, Boston's Silverglate, Gertner, Fine, Good & Mizner; Steven T. Catlett, Columbus office of Jones, Day, Reavis & Pogue; Susan A. Dunn, Fenwick, Davis & West in Palo Alto, Calif.; Nelson Lund, Bush-Quayle Campaign and Alan Keyes for U.S. Senate Campaign

Justice Antonin Scalia

New clerks: Wendy E. Ackerman, Chicago (Judge Stepehn F. Williams, D.C. Circuit); Richard P. Bress, Stanford (Judge Stephen F. Williams D.C. Circuit); D. Cameron Findlay, Harvard (Judge Stephen F. Williams D.C. Circuit); John F. Manning, Harvard (former Judge Robert H. Bork, D.C. Circuit)

Former clerks: Richard D. Berstein, Washington, D.C., office of New York's Skadden, Arps, Slate, Meagher & Flom; Steven G. Calabresi, American Enterprise Institute for Public Policy Research in Washington, D.C., working with former Judge Robert H. Bork of the D.C. Circuit; Paul T. Cappuccio, Jones, Day, Reavis & Pogue; leaves in January to clerk for Justice Anthony M. Kennedy for six months; Rober H. Tiller, Washington, D.C.'s Onek Klein and Farr

Justice Anthony M. Kennedy

New clerks: Elizabeth D. Collery, Harvard (Judge Douglas Ginsburg, D.C. Circuit); Miguel A. Estrada, Harvard (Judge Amalya Lyle Kearse, 2d Circuit); Thomas G. Hungar, Yale (Judge Alex Kozinski, 9th Circuit); Peter D. Keisler, Yale (former Judge Robert H. Bork, D.C. Circuit)

Former clerks: E. Lawrence Vincent, Houston's Susman, Godfrey & McGowan; Daniel Chung, undecided

Retired Chief Justice Warren Burger

New clerk: William K. Kelley, Harvard (Judge Kenneth W. Starr, D.C. Circuit)

Former clerk: Gregory Dovell, Los Angeles' Mitchell, Silberg & Knupp

Retired Justice Lewis F. Powell Jr.

New clerk: R. Hewitt Pate III, Virginia (Judge J. Harvie Wilkinson III, 4th Circuit)

Former clerk: Robert W. Werner, Robinson & Cole, Hartford, Conn.

1988 The National Law Journal, October 17, 1988

LANGUAGE: ENGLISH

LEVEL 1 - 165 OF 166 STORIES

October 12, 1987
Correction Appended

SECTION: Pg. 3

LENGTH: 1078 words

HEADLINE: 31 New Clerks Begin at Supreme Court;
34 Ex-Clerks Turn in Passes

BYLINE: BY MARCIA COYLE, National Law Journal Staff Reporter

BODY:
A "WORLD OF secrets" has closed to one group of U.S. Supreme Court clerks and opened to another as the 1987-'88 term gets underway.

It is "incredibly difficult," notes one former high-court clerk, to turn in your Supreme Court pass -- the official end to an unparalleled legal experience. "Now the world of secrets closes behind you," he adds, and these lawyers must take their place with outside court observers.

The 34 clerks who recently handed over their passes already have taken new positions in academia or in large and small firms around the country. The justices' chambers will be home to 31 new clerks, almost half of whom clerked previously at the U.S. Circuit Court of Appeals for the District of Columbia.

Most of the former clerks will work in large firms, with New York's Davis Polk & Wardwell hiring three -- the largest number. Three law schools will benefit from former clerks' experience and expertise: Northwestern University School of Law, Columbia University School of Law and George Mason University School of Law.

Seven of the 31 new clerks graduated from Harvard Law School and four from Yale Law School. Other schools represented by the new clerks include the University of Chicago Law School, Columbia University School of Law, University of Virginia School of Law and University of North Carolina School of Law.

The following is a list of the former clerks and their new positions, and the new clerks, their law schools and their previous clerkships:

CHIEF JUSTICE WILLIAM H. REHNQUIST

FORMER CLERKS

David Leitch: Hogan & Hartson (Washington, D.C.).

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William Lindsay: Gibson, Dunn & Crutcher (Los Angeles).

Laura Little: Dechert Price & Rhoads (Philadelphia).

NEW CLERKS

James A. Downs, Chicago (Judge James L. Oakes, 2d Circuit).

Richard C. Miller, Pennsylvania (Judge Spottswood W. Robinson III, D.C. Circuit).

William L. Taylor, Yale (Senior Judge John M. Wisdom, 5th Circuit).

JUSTICE WILLIAM J. BRENNAN JR.

FORMER CLERKS

Mark Haddad: Sidley & Austin (Washington, D.C.).

Dean Hashimoto, who is also a medical doctor: Ropes & Gray (Boston) and Harvard Public Health Service.

Milton Regan: Davis Polk & Wardwell (Washington, D.C.).

Virginia Seitz: Bredhoff & Kaiser (Washington, D.C.).

NEW CLERKS

Einer Elhauge, Harvard (Judge William A. Norris, 9th Circuit).

Mark H. Epstein, Hastings, University of California (U.S. District Senior Judge Stanley A. Weigel in San Francisco).

Joseph R. Guerra, Georgetown (U.S. District Judge Joyce Hens Green in Washington, D.C.).

Joshua Rosenkranz, Georgetown (Judge Stephen F. Williams, D.C. Circuit).

JUSTICE BYRON R. WHITE

FORMER CLERKS

David Burcham: Gibson, Dunn & Crutcher (Los Angeles).

Samuel Dimon: Davis Polk & Wardwell (Washington, D.C.).

Mary Sprague: Arnold & Porter (Washington, D.C.).

Richard Westfall. Davis, Graham & Stubbs (Washington, D.C.).

NEW CLERKS

Albert J. Boro Jr., Berkeley, University of California (Judge Walter J. Cummings, 7th Circuit).

Richard Cordray, Chicago (Judge Robert H. Bork, D.C. Circuit).

Ronald A. Klain, Harvard (Harvard Law School).

Barbara McDowell, Yale (Judge Ralph K. Winter Jr., 2d Circuit).

JUSTICE THURGOOD MARSHALL

FORMER CLERKS

Glen Darbyshire: undecided.

Rosemary Herbert: American Civil Liberties Union (New York, fellowship).

Eben Moglen: Columbia University School of Law.

Margaret Raymond: undecided.

NEW CLERKS

Michael Doss, Pennsylvania (Judge James L. Oakes, 2d Circuit).

Elena Kagan, Harvard (Judge Abner J. Mikva, D.C. Circuit).

Harry Litman, Berkeley, University of California (Judge Abner J. Mikva, D.C. Circuit).

Carol S. Steiker, Harvard (Judge J. Skelly Wright, D.C. Circuit).

JUSTICE HARRY A. BLACKMUN

FORMER CLERKS

Beth Brinkman: Turner & Brorby (San Francisco).

Ellen Deason: Iran/U.S. Claims Tribunal (The Hague).

James Fanto: undecided.

Chai Feldblum: AIDS Action Council (Washington, D.C.).

NEW CLERKS

Emily Buss, Yale (U.S. District Judged Louis H. Pollak in Philadelphia).

Daniel Ertel, Harvard (Chief Judge Patricia M. Wald, D.C. Circuit).

Ann M. Kappler, New York University (Judge Abner J. Mikva, D.C. Circuit).

Alan C. Michaels, Columbia (Chief Judge Wilfred Feinberg, 2d Circuit).

JUSTICE JOHN PAUL STEVENS

FORMER CLERKS

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Ronald Lee: Arnold & Porter (Washington, D.C.).

Lawrence Marshall: Northwestern University School of Law.

NEW CLERKS

Abner S. Greene, Michigan (Chief Judge Patricia M. Wald, D.C. Circuit).

Teresa W. Roseborough, North Carolina (Judge James D. Phillips Jr., 4th Circuit).

JUSTICE SANDRA DAY O'CONNOR

FORMER CLERKS

Charles Blanchard: Office of Independent Counsel James McKay (Washington, D.C.). He will join Phoenix, Ariz.'s Brown & Bain next year.

Daniel Bussell: Office of Independent Counsel James McKay.

Susan Creighton: Wilson, Sonsini, Goodrich & Rosati (Palo Alto, Calif.).

Joan Greco: Davis Polk & Wardwell (New York).

NEW CLERKS

Sharon L. Beckman, Michigan (Judge Frank M. Coffin, 1st Circuit).

Steven T. Catlett, Columbia (Judge Kenneth W. Starr, D.C. Circuit).

Susan A. Dunn, Stanford (Judge Joseph T. Sneed, 9th Circuit).

Nelson Lund, Chicago (Judge Patrick E. Higginbotham, 5th Circuit).

JUSTICE ANTONIN SCALIA

FORMER CLERKS

Gary Lawson: Yale Law School, fellowship.

Lee Liberman: George Mason University School of Law.

Roy McLeese III: assistant U.S. attorney (Washington, D.C.).

Patrick Schiltz: Faegre & Benson (Minneapolis).

NEW CLERKS

Richard D. Bernstein, Columbia (Judge Amalya Lyle Kearse, 2d Circuit).

Steven G. Calabresi, Yale (Judge Robert H. Bork, D.C. Circuit).

Paul T. Cappuccio, Harvard (Judge Alex Kozinski, 9th Circuit).

Robert H. Tiller, Virginia (Judge Stephen F. Williams, D.C. Circuit).

RETIRED JUSTICE LEWIS F. POWELL JR.

FORMER CLERKS

Leslie Gielow Jacobs: Altshuler & Berzon (San Francisco).

Andrew Leipold: Morgan, Lewis & Bockius (Philadelphia).

Robert Long: Covington & Burling (Washington, D.C.).

Ronald Mann: Dow, Cogburn & Friedman (Houston).

NEW CLERK

Robert W. Werner, New York University (U.S. District Judge Edward Weinfeld in New York).

RETIRED CHIEF JUSTICE WARREN E. BURGER

FORMER CLERK

Gene Schaerr: Sidley & Austin (Washington, D.C.).

NEW CLERK

Gregory Dovell, Harvard (Judge J. Clifford Wallace, 9th Circuit).

CORRECTION-DATE: November 16, 1987

CORRECTION:
THE NATIONAL Law Journal incorrectly reported in its Oct. 26 issue that Peter Perlman of Lexington, Ky.'s Peter Perlman Law Offices, P.S.C. would participate in a Trial Lawyers for Public Justice project to help the Christic Institute in a lawsuit. A conflict forced Mr. Perlman to withdraw from the case after printed materials about the project had been prepared.

In the Oct. 12 issue, it was inaccurately reported that Mark H. Epstein, a new clerk to U.S. Supreme Court Justice William J. Brennan Jr., is a graduate of the University of California, Hastings College of Law. He graduated from the University of California at Berkeley School of Law.

LANGUAGE: ENGLISH

LEVEL 1 - 166 OF 166 STORIES

Legal Times

September 7, 1987
Correction Appended

1987 Legal Times, September 7, 1987

SECTION: Pg. 4

LENGTH: 1632 words

HEADLINE: Boutiques Lose Appeal for 1986 Clerks

BYLINE: Reported by Susan Hollinger, LJ Pendlebury, and Lisa Schkolnick

BODY:

D.C.'s Arnold & Porter and Wilmer, Cutler & Pickering appear to be the big winners in the annual sweepstakes for Supreme Court and D.C. Circuit clerks.

Arnold & Porter has two Supreme Court clerks and one D.C. Circuit clerk signed on so far.

Wilmer, Cutler has snagged four D.C. Circuit clerks, including one "almost Supreme" clerk -- Edward Foley, who was slated for a Powell clerkship until the justice unexpectedly retired from the Court.

D.C.'s Covington & Burling has so far netted one Supreme Court clerk and has another offer outstanding, according to H. Edward Dunkelberger Jr., a partner and spokesman for the firm. Covington also has one D.C. Circuit clerk arriving next month.

Absent so far from the list of destinations for Supreme Court clerks are such perennial D.C. favorites as Williams & Connolly; Miller, Cassidy, Larroca & Lewin; Onek, Klein & Farr; and Shea & Gardner.

Yet 10 Supreme Court clerks are still in the process of making up their minds.

About half of the Supreme Court clerks are joining firms. Arnold & Porter; Los Angeles' Gibson, Dunn & Crutcher, and New York's Davis Polk & Wardwell are the leaders so far, with two clerks apiece. Although several New York firms offer generous ($ 10,000 or more) sign-on bonuses to Supreme Court clerks, so far Davis Polk is the only New York firm to have attracted any this year. Several clerks opted to join large firms in their home cities.

Seven of the 34 Supreme Court clerks are taking public-interest jobs or teaching. George Mason University School of Law, on an aggressive hiring spree in order to become a home to the conservative law-and-economics movement, snagged one of Scalia's clerks, Lee Liberman, a highly regarded former Justice Department attorney.

The absence of formerly popular D.C. boutiques from the list of destinations does not seem to bother these firms. Joel Klein, at Onek, Klein, says his firm interviewed a few of this year's Supreme Court clerks, but made no offers. "You'll hear from us next year," Klein predicts. "We were a little tentative in hiring this year . . . . This crop didn't excite us." The firm hires only one or two associates a year.

Stephen Braga, head of the hiring committee at Miller Cassidy, reports that his firm made two offers to Supreme Court clerks, neither of which was accepted. "Of the people we interviewed at the Supreme Court and the Circuit Court, we liked the circuit people better." So far, the firm has signed one D.C. Circuit

clerk.

Meanwhile, Wilmer, Cutler far outpaced its rivals in D.C. Circuit clerk hirings.

And Judge Abner Mikva placed all three of his clerks in Supreme Court chambers, while Chief Judge Patricia Wald and Judge Stephen Williams, a new member of the bench, each are sending up two. Only one of Supreme Court nominee Robert Bork's clerks is ascending to the Supremes.

Wilmer, Cutler Attracts Four Departing D.C. Circuit Clerks

CLERK	LAW SCHOOL	NEXT POSITION
Chief Judge Patricia Wald		
Danny Ertel	Harvard	Justice Harry Blackmun
Edward Foley	Columbia	Wilmer, Cutler & Pickering (D.C.)
Abner Green	Michigan	Justice John Paul Stevens
Nina Swift-Goodman	Georgetown	Zuckerman, Spaeder Goldstein, Taylor & Kolker (D.C.)
Judge Robert Bork		
Richard Cordray	Chicago	Justice Byron White
Douglas Mayer	Columbia	Mayer, Brown & Platt (D.C.)
Rebecca Swenson	Duke	Arnold & Porter (D.C.)
Judge James Buckley		
William Levin	illYale	Undecided
Joseph Schmitz	Standford	Paul, Hastings, Janofsky & Walker (D.C.)
Michael Socarras	Yale	Cravath, Swaine & Moore (New York)
Judge Harry Edwards		
Sanford Caust-Ellenbogen	New York Univ.	Teaching at Ohio State Univ.
Andrew Roth	Michigan	Wilmer, Cutler & Pickering (D.C.)
Mary LaFrance	Duke	Fried, Frank, Harris, Shriver & Jacobson (D.C.)
Judge Douglas Ginsburg		
Steven Aitken	Harvard	Office of Management and Budget
Robert Gordon	Harvard	Undecided (D.C.)
James Swanson	UCLA	Undecided
Judge Ruth Bader Ginsburg		
Mark Greenberg	California (Berkeley)	Further study, Magdalen College (Oxford Univ.)
David Post	Georgetown	Wilmer, Cutler & Pickering (D.C.)
Jay Alexander	Stanford	Miller, Cassidy, Larroca & Lewin (D.C.)
Judge Abner Mikva		
Elena Kagan	Harvard	Justice Thurgood Marshall
Ann Kappler	New York	Justice Harry Blackmun
Harry Litman	California (Berkeley)	Justice Thurgood Marshall
Judge Spottswood Robinson		
Margaret Jenkins	Boston Univ.	Wilmer, Cutler & Pickering (D.C.)
R. Charles Miller	Pennsylvania	Chief Justice William

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		Rehnquist
Reva Seigel	Yale	Teaching of Univ. of California Law (Berkeley)
	Judge Laurence	Silberman
Brian Anderson	Stanford	Dept. of Education, Office of General Counsel
Steven Bunnell	Stanford	Miller, Cassidy, Larroca & Lewin (D.C.)
John Lewis	Texas	Undecided
	Judge Kenneth	Starr
Steven Catlett	Columbia	Justice Sandra Day O'Connor
Peggy Meriwether	California (Berkeley)	Further study at Oxford Univ.
Richard Seamor	Duke	Covington & Burling (D.C.)
	Judge Stephen	Williams
William Mooz	Colorado	Cogswell and Wehrle (Denver)
Joshua Rosenkranz	Georgetown	Justice William Brennan
Robert Tiller	Virginia	Justice Antonin Scalia

Note: This table may be divided, and additional information on a particular entry may appear on more than one screen.

Most Supreme Court Clerks Opt for Big Firms, Not Boutiques

CHAMBERS	NAME OF CLERK	LAW SCHOOL
Chief Justice William Rehnquist	David Leitch	Virginia
	William Lindsay	California (Berkeley)
	Laura Little	Temple
Justice William Brennan Jr.	Mark Haddad	Yale
	Dean Hashimoto	Yale
	Milton Regan	Georgetown
	Virginia Seitz	New York (Buffalo)
Justice Byron White	David Burcham	Loyola Univ.
	Samuel Dimon	Michigan
	Mary Sprague	Yale
	Richard Westfall	Denver
Justice Thurgood Marshall	Glen Darbyshire	Georgia
	Rosemary Herbert	Yale
	Eben Moglen	Yale
	Margaret Raymond	Columbia
Justice Harry Blackmun	Beth Brinkmann	Yale
	Ellen Deason	Michigan
	James Fanto	Pennsylvania
	Chai Feldblum	Harvard
Justice Lewis Powell Jr.	Leslie Gielow	Michigan
	Andrew Leipold	Virginia
	Robert Long	Yale
	Ronald Mann	Texas
Justice John Paul Stevens	Ronald Lee	Yale
	Lawrence Marshall	Northwestern
Justice Sandra Day O'Connor	Charles Blanchard	Harvard
	Daniel Bussel	Stanford
	Susan Creighton	Stanford
	Joan Greco	Harvard (1984-85)
Justice Antonin Scalia	Gary Lawson	Yale

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	Lee Liberman	Chicago
	Roy McLeese III	New York Univ.
	Patrick Schiltz	Harvard
Retired Chief Justice Warren Burger	Gene Schaerr	Yale

CHAMBERS	PREVIOUS CLERKSHIP
Chief Justice William Rehnquist	J. Harvie Wilkinson III, 4th Cir.
	Carl McGowan, D.C. Cir.
	James Hunter III, 3rd Cir.
Justice William Brennan Jr.	Louis Pollak, E.D. Pa.
	David Bazelon, D.C. Cir. (1984-85)
	Ruth Bader Binsburg, D.C. Cir.
	Harry Edwards, D.C. Cir.
Justice Byron White	Ruggero Aldisert, 3rd Cir.
	Justice Byron White (two year term)
	Jim Carrigan, D. Colo.
	Robert McWilliams, 10th Cir.
Justice Thurgood Marshall	James Oakes, 2nd Cir.
	Wilfred Feinberg, 2nd Cir.
	Edward Weinfeld, S.D.N.Y.
	James Oakes, 2nd Cir.
Justice Harry Blackmun	Phyllis Kravitch, 11th Cir.
	Harry Edwards, D.C. Cir.
	Louis Pollak, E.D. Pa.
	Frank Coffin, 1st Cir.
Justice Lewis Powell Jr.	Louis Oberdorfer, D.D.C.
	Abner Mikva, D.C. Cir.
	John Minor Wisdom, 5th Cir.
	Joseph Sneed, 9th Cir.
Justice John Paul Stevens	Abner Mikva, D.C. Cir.
	Patricia Wald, D.C. Cir.
Justice Sandra Day O'Connor	Harry Edwards, D.C. Cir.
	Stephen Breyer, 1st Cir.
	Pamela Rymer, C.D. Calif.
	Ruth Bader Binsburg, D.C. Cir.
Justice Antonin Scalia	Antonin Scalia, D.C. Cir. (1984-85)
	Antonin Scalia, D.C. Cir. (1983-84)
	Antonin Scalia, D.C. Cir.
	Antonin Scalia, D.C. Cir.
Retired Chief Justice Warren Burger	Kenneth Starr, D.C. Cir.

CHAMBERS	NEXT POSITION
Chief Justice William Rehnquist	Hogan & Hartson (D.C.)
	Gibson, Dunn & Crutcher (Los Angeles)
	Dechert Price & Rhoads (Philadelphia)
Justice William Brennan Jr.	Undecided (private firm, D.C.)
	Ropes & Gray (Boston) *
	Davis Polk & Wardwell (D.C.)
	Bredhoff & Kaiser (D.C.)
Justice Byron White	Gibson, Dunn & Crutcher (Los Angeles)
	Davis Polk & Wardwell (D.C.)
	Arnold & Porter (Denver)
	Davis, Graham & Stubbs (D.C.)
Justice Thurgood Marshall	Undecided (private firm, D.C. or Atlanta)
	American Civil Liberties Union
	New York, fellowship)

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	Columbia University School of Law (New York)
	Undecided (New York)
Justice Harry Blackmun	Undecided (private firm)
	Iran/U.S. Claims Tribunal
	undecided (D.C.)
	AIDS Action Council (D.C.)
Justice Lewis Powell Jr.	Altshuler & Berzon (San Francisco)
	Morgan, Lewis & Bockius (Philadelphia)
	Covington & Burling (D.C.)
	Undecided (private firm)
Justice John Paul Stevens	Arnold & Porter (D.C.)
	Northwestern Univ. School of Law
Justice Sandra Day O'Connor	Nofziger Special Investigation [+]
	Undecided
	Undecided
	Undecided
Justice Antonin Scalia	Yale Law School (fellowship)
	George Mason Univ. School of Law
	Asst. U.S. Attorney (D.C.)
	Undecided
Retired Chief Justice Warren Burger	Sidley & Austin (D.C.)

* Dean Hashimoto, who is also a medical doctor, is working part-time at Ropes & Gray and serving part-time at the Harvard Public Health Service.

[+] Charles Blanchard will join Phoenix's Brown & Bain next year, after serving in the office of Independent Counsel James McKay.

CORRECTION-DATE: September 28, 1987

CORRECTION:
Also in the Sept. 7 issue, the chart accompanying "Boutiques Lose Appeal for 1986 Clerks" (Page 4) misidentified the law school attended by Ann Kappler, incoming clerk to Justice Harry Blackmum. Kappler is a graduate of New York University School of Law.

LANGUAGE: ENGLISH

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